

# Is this an ad? How influencers disclose paid content after a change in the law

## ¿Es un anuncio? Cómo los influencers señalizan el contenido patrocinado tras un cambio legislativo

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### Abstract

As of July 2022, the Spanish government explicitly requires influencers to disclose commercial content. However, there is no standardised model for this. This study, therefore, analyses how influencers disclose paid content and whether any significant changes came into being after the law came into force. For this purpose, a content analysis was conducted on 903 Instagram publications with brand mentions from 40 Spanish influencers. The results demonstrate that posts without any disclosure tag decreased by 25.12% following the law's implementation. Within this context, there is an observed 23.04% increase in the use of adwords (ADW) within the text and a slight increase (2.08%) in the exclusive use of Instagram's integrated paid partnership label (PPL). Despite previous studies having demonstrated that PPL is the most effective means of identifying persuasive communication, it is confirmed that its usage remains in the minority (7.19%). Likewise, most ADWs are located at the end of the caption (86.86%), remaining hidden at first sight for mobile users. Furthermore, it is observed that clear identification of commercial content by influencers is rewarded with higher organic engagement.

**Keywords:** advertising, Instagram, paid content, regulation, transparency.

### Resumen:

*Desde julio de 2022, el gobierno español exige explícitamente a los influencers señalar cuándo un contenido es comercial, pero no especifica exactamente cómo. Por ello, este estudio analiza cómo los influencers señalan su contenido publicitario y si se aprecian diferencias significativas tras la entrada en vigor de la ley. Se realizó un análisis de contenido de 903 publicaciones de Instagram con menciones de marca de 40 influencers españoles. Los resultados muestran que las publicaciones sin ninguna marcación disminuyeron en un 25,12% después de la entrada en vigor de la ley. En este sentido, se observa un aumento de un 23,04% en la utilización de adwords (ADW) en el texto y un ligero aumento (2,08%) de la utilización exclusiva de la etiqueta de señalización integrada de Instagram (PPL). A pesar de que estudios anteriores han demostrado que la PPL es la manera más efectiva de identificar la comunicación persuasiva, se confirma que su uso sigue siendo minoritario (7,19%). Asimismo, se demuestra que las ADW se ubican mayoritariamente al final del texto de la publicación (86,86%) pudiendo quedar ocultas en dispositivos móviles. Y por último, se aprecia una mayor interacción cuando el contenido comercial está claramente señalado.*

**Palabras clave:** publicidad, Instagram, contenido pagado, regulación, transparencia.

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## 1. Introduction

Recent studies conclude that Instagram users feel confident about recognizing paid content, even the youngest ones (Boerman & Müller, 2021; Durazo *et al.*, 2022; Ofcom, 2023). However, they also note that it can be challenging to determine the commercial intention of the influencer when there is a brand in their content (Ofcom, 2023, p. 45). This is because an influencer can showcase a brand for reasons other than economic compensation, such as its trendiness, or because it's a part of their daily outfit (#OOTD). Therefore, a critical attitude towards persuasive content is not always activated.

The Persuasion Knowledge Model already suggested that for advertising literacy to be triggered, the advertising content must be correctly identified (Friestad & Wright, 1994, p. 1-31). If not, the message receptor cannot activate their knowledge about persuasion, which has been socioculturally acquired and formed for centuries. They cannot exercise "self-control over the effects of other people's attempts to intervene in their own private and public life" (Friestad & Wright, 1999, p. 187).

Previous scientific literature describes three levels of depth in persuasion processing: systematic, heuristic and automatic. Systematic persuasive processing requires deep cognitive elaboration. There is a need for significant cognitive effort and attention to the conscious message. This is the deepest level of analysis since the receiver adopts a critical attitude towards the persuasion attempt and activates advertising literacy to evaluate its pros and cons (Buijzen *et al.*, 2010, p. 430).

The heuristic processing requires less attention and less awareness. The receptor activates a moderate type of processing and relies on simple decision strategies that do not require too much effort. For example, it can be influenced by the attractiveness of the font, the number of persuasive arguments, or even by the creative strategies applied to the product. As a result, the recipient is in a more vulnerable situation and, consequently, is more susceptible to making a change in attitude favourable to the persuasive message (Livingstone & Helsper, 2006, p. 572).

Finally, in automatic processing, the receiver can activate a change in attitude without being aware that persuasive communication is influencing them. For example, in the case of advertising content subtly integrated into films, video games or web pages. Due to this camouflage within the medium, the receptor rarely activates either his critical capacity or his scepticism towards the persuasive content to which he is exposed (Hudders *et al.*, 2017, p. 334). Influencer marketing, in particular, is perfectly integrated with the organic content from the influencers, which is the most critical issue regarding its transparency.

Therefore, and taking into account these levels of cognitive processing, it is essential to understand the level of integration of the advertising message with regards to the organic content of the influencer and, consequently, to investigate the clarity with which the paid content is disclosed in order to differentiate it from the rest of the content. These factors could provide insight into what level of persuasion processing will most likely be activated in influencer marketing.

### 1.1. The importance and concerns about influencer marketing

Influencer marketing is a strategic approach that leverages influential individuals or entities' reach, authority, and persuasion within a specific target audience to promote products, services, or brands. It involves collaboration between companies and influencers to create authentic content and engage audiences, aiming to drive consumer behaviour and achieve marketing goals (Kanaveedu & Kalapurackal, 2022, p. 2).

Projections indicate that ad spending in the influencer advertising market will hit €28.94 billion by 2023 and, for the next four years, influencer ad spending is expected to show an annual growth rate of 11.61% (Statista, 2023). Spain is home to 1.575 million influencers, making up 15% of the total influencers in Western Europe (IAB Spain & Nielsen, 2022).

As influencer marketing grows, concerns about its transparency also grow, precisely because the limits of where user-generated content and influencer marketing start are not straightforward, which can lead to confusion for users (EASA, 2015, p. 12).

The mere intent to advertise within a communication is sufficient to classify it as a commercial message (Law 13/2022, Art. 121). Consequently, even non-monetary transactions like bartering, gifting, or other exchanges of value between brands and influencers should also be considered influencer marketing.

Conversely, suppose the influencer has no relationship with the brand and only tells people about a product they have purchased or liked, with no advertising intent. In that case, it should not be considered commercial communication (FTC, 2019).

The difficulty of knowing the real intent of influencers' publications raises ethical and legal considerations, primarily due to concerns that the consumer may be unable to distinguish between genuine recommendations and paid endorsements (Wellman *et al.*, 2020, pp. 4-5).

Another worry related to influencer marketing is its potential for exploitation and manipulation. As influencers wield more power over their audience, they may prioritise financial gain over the best interests of their followers. This could result in the promotion of products or services that may not align with the values or needs of the audience, potentially leading to misguided consumer choices or even harm (European Parliament, 2022, p. 95).

Although influencers may have motivations to be transparent in their communications, they might also choose to avoid mentioning that a publication contains advertising. On the one hand, when followers perceive an alignment between the influencer's messages and the endorsed product, it increases the influencer's credibility (Belanche *et al.*, 2021, p. 191). On the other hand, influencers may not highlight their monetary motivations to avoid being perceived as mere "human advertising spaces" and not undermine their trustworthiness (Karagür *et al.*, 2022, p. 331).

## 1.2 Spanish laws impacting influencer marketing

To be compliant, the branded content of influencers must guarantee to adhere to the regulations established by each platform and align itself to the country's current laws. For the latter, influencers must be knowledgeable about various laws that, in most cases, do not mention the word influencer or similar.

Until June 2023, there was no specific law for influencers in Europe. The French government was the first to approve a law aimed at controlling the practices of influencers, primarily addressing the way they use their influence for advertising (France Ministère de l'Économie, 2023).

Nevertheless, it does not mean that there are no laws that require influencers to clearly indicate commercial content in the rest of European countries. Spanish legislation has several laws that define the nature of advertising, safeguarding consumer rights and guaranteeing fair competition. All of them have always had implications for influencer marketing.

The General Advertising Law (Law 34/1988) sets the foundation for transparency in advertising. It mandates that all advertising content must conspicuously disclose its advertising nature and identify the advertiser (Law 34/1988, Art. 9). This requirement is key in order to prevent any ambiguity or confusion among the audience.

Similarly, the Unfair Competition Law (Law 3/1991) focuses on preventing deceptive advertising practices. It stipulates that all advertising messages must explicitly declare their promotional nature and identify the advertiser to avoid any risk of being deemed unlawful advertising (Law 3/1991, Art. 7, 26). This provision is especially relevant to influencer marketing, as it seeks to prevent opinion leaders from disseminating disguised advertising messages under the guise of informative or judgmental content.

Lastly, the Law on Information Society Services and Electronic Commerce (Law 34/2002) specifically addresses online advertising. Article 20.1 of this law stipulates that all online advertising must clearly indicate its advertising nature and identify the advertiser, mirroring the principles outlined in the General Advertising Law (Law 34/2002, Art. 20.1).

However, it was not until July 8th, 2022, with the modification of the existing General Law of Audiovisual Communication (Law 7/2010), that influencers were directly addressed by Spanish law. For the first time, a law imposed specific obligations on influencers, categorising them as "users of special relevance". Those falling into this category are users who engage in economic activities resulting in significant income.

Among their obligations, influencers must disclose whether their content may harm minors' physical, mental, or moral health. They must also register with the Audiovisual Communication Services Registry and adhere to the obligations regarding commercial communications outlined in the Law on Information Society Services and Electronic Commerce.

By this new rule, influencers must explicitly differentiate editorial content through optical, acoustic and/or spatial mechanisms. The new legislation expressly prohibits communications that may be misleading in their

advertising intention (Law 13/2022). Therefore, although influencers were already required to clearly disclose branded content, as of July 9, 2022, they are explicitly called upon to do so, along with other new responsibilities.

It is worth mentioning that, before the influencer legislature emerged or influencers were mentioned in laws, different organisations have worked for transparency in influencer marketing. During those years, influencers were expected to be aware of these codes of good practice.

This is the case of both the Federal Trade Commission (FTC) in the US, and the European Advertising Standards Alliance (EASA) in Europe. Between 2018 and 2019, these organisations created respective guidelines to emphasise that influencers should make clear indications when a piece of content is a marketing communication (EASA, 2018; FTC, 2019).

In addition, the Spanish Association of Advertisers and Autocontrol (an independent self-regulation body for the advertising industry in Spain) collaborated in 2020 to develop the Code of Conduct for the use of influencers in advertising. While this document is not legally binding, it sets forth a series of guidelines and best practices for both influencers and companies when creating advertising content. The document emphasises that digital advertising content made by influencers must be "identifiable" to their followers. If it is not clear, influencers must explicitly and immediately indicate that it is advertising. For this purpose, the use of terms such as "advertising," "ad," or "collaboration" were suggested.

However, none of these guidelines propose a standardised way to flag up paid content. These guidelines are limited to advocating the fundamental principle that, irrespective of the context, a rational consumer should be able to differentiate between an influencer's genuine opinion and an opinion influenced by an economic purpose. The reason they give is that due to the diverse range of influencer marketing scenarios, it's not feasible to recommend a universal, one-size-fits-all disclosure method (IAB, 2018, p. 14).

Nor does Spanish legislation make specific mechanisms available to influencers in order to reveal paid content. Thus, how to disclose paid content depends on the creativity of the influencers, the requirements of the brand, and the possibilities offered by the platform interface.

### 1.3. Disclosures and other advertising cues

Advertising disclosure is prominent and well-placed information that indicates to consumers that a message is an advertisement (FTC, 2015). It usually includes terms such as 'ad' or 'advertisement' and statements such as 'Sponsored by (brand)' (Weismueller *et al.*, 2020, p. 2). The disclosure has to be clear and conspicuous (FTC, 2015).

Advertising disclosure first appeared with product placement in television programs, since the product or service sponsored was blended into the medium and the advertising intent was no longer clearly identifiable (Karagür *et al.*, 2022, p. 317). Disclosure has continued to be necessary in all those environments in which commercial content is shown as native content, therefore potentially misleading its intention.

However, disclosures are only one of the ways to activate persuasion knowledge, since other cues can help users infer the persuasive intent of a message. The ways of perceiving the advertising purpose can be classified as top-down and bottom-up cues (Boerman & Müller, 2021, p. 9).

Disclosures are top-down cues and have traditionally been considered the key to activating persuasion knowledge (Eisend & Tarrahi, 2021, p. 5). However, within the social media context, there is also a need for other context-driven signals, or bottom-up cues, such as brand presence, influencer type, or the product promoted, in order for the commercial content to be recognised as such (Boerman & Müller, 2021; Durazo *et al.*, 2022; Eisend & Tarrahi, 2021).

Sponsorship disclosure has been studied in different domains, such as marketing, consumer psychology, business, management, and information systems. These studies mainly focus on paid partnerships, influencer marketing, advertising literacy, trust, native advertising, and sponsorship transparency (Jhawar *et al.*, 2023, p. 2).

However, to the best of our knowledge, there is no evidence of how, de facto, influencers are disseminating sponsored content and, even less so, in the context of a changing law.

This study aims to describe how influencers disclose their commercial content and whether the change in Spanish legislation affects the way and the frequency in which they do so. For this purpose, different posts from 40 Spanish Instagrammers were analysed.

In Spain, 70% of social media users use Instagram to follow influencers (Statista, 2023). Instagram is the first platform by number of influencers in Spain, the United Kingdom and Italy (IAB Spain & Nielsen, 2022).

Regarding Instagram policy:

"Branded content is content for which the creator has been compensated, either with money or something else of value, by a brand or business partner. This may include when products and services have been gifted for free. All branded content on Instagram must be disclosed using the paid partnership label." (Instagram Help Center, n.d.)

The paid partnership label (PPL) is placed above a post in a feed or story in a highly visible way. It means that the person who shared it has a business relationship with the mentioned partner and was compensated in some way for the publication.

On the other hand, influencers usually explain that a piece of content is commercial using the publication's caption. Advertising-related Words (ADW) such as "ad" or "collaboration" can be written as a hashtag (i.e. #ad) or as integrated text in the caption (i.e. "in collaboration with this brand").

Additionally, the brand presence can be found in the caption when the influencer mentions a brand, adds a link to the brand's official account or tags the name of the brand or the product. The Instagram brand account can also be linked to the post's photo or video. This resource is known as 'tags'.

While the PPL is a standardised way designed by Instagram (and mandatory) to indicate paid content, writing an ADW is a casual resource influencers create. Creators can decide how and where to put an ADW in the caption. Likewise, tagging is a mechanism created for brands to know who is mentioning them, and not so much as a resource to disclose the commercial nature of a publication.

Taking these into account, the following specific objectives are set:

SO1: Analyse and compare the frequency of use of the paid partnership label (PPL) and adwords (ADW).

SO2: Identify the most frequent ADW and analyse their placement, which affects their visibility.

SO3: Determine whether the specific requirement to identify paid content by influencers in the General Audiovisual Communication Act of 2022 has resulted in an increase in correctly disclosed commercial posts.

Furthermore, influencers adapt their publishing behaviour according to the posts that generate most interest and, therefore, most interactions and better positioning for them. The metrics they obtain from each of their publications guide them on how and what to publish to obtain this success. Therefore, it is interesting to see if certain ways of marking advertising content generate less user interaction. Each publication's engagement rate was gathered for that purpose. Engagement Rate (ER) is the division of the sum of likes, comments and saves on a publication by the number of followers, and it is a common way to measure the success of a publication.

SO4: Evaluate if there are relevant correlations between the type of disclosure, its placement, and the engagement the content receives.

Other factors could be influencing how an influencer discloses paid content. On the one hand, what the influencer believes the audience expects from them, considering the content they publish. On the other hand, how the brand asks the influencer to behave. Therefore, the following specific objective is included:

SO5: Analyse whether the type of influencers and the quantity of brand mentions are related to a specific way of disclosing sponsored content

## 2. Methods

The study was based on 903 Instagram posts from different influencers with at least one brand mention (@brand) in their content. The publications were extracted from the machine learning and natural language processing tool Hype Auditor, between February 2022 and March 2023. 40 Spanish influencers were chosen (female: 30, male: 10) according to different levels of brand mention saturation in their content ( $BM_{low} = <10$ ,

$BM_{medium} = 10-20$ ;  $BM_{high} = 20-30$ ,  $BM_{veryhigh} \geq 30$ , with a community of 70K+, with an ER greater than 1%, and with more than one 65% of its audience located in the age range of 13 to 34 years.

The quantitative content analysis adopted an experimental design composed of the following categories:

Table 1. Coding grid

PPL	ADW	ADW placement	Brand image/video tag
Yes / No	#(open field)	Header / Middle / End	Yes / No

Source. Own elaboration.

Additionally, the Hype Auditor tool automatically extracted the variables of "type of influencer", according to the topics that they deal with on his Instagram account (Table 2), "type of publication" (reel, video or post), "date of publication", "engagement" (EG) or likes and comments, and engagement rate (ER) of each publication in the sample.

Table 2. Type of influencers

Code	Title	Topics
T1	Fashion	Beauty, Fashion, Clothing and Modeling,
T2	Health	Food Cooking, Health Medicine and Yoga
T3	Earth	Travel, Animals, Art-Artist and Sustainability
T4	Celebrities	Cinema, Actors, Actresses and Celebrities
T5	Gamers	Technologies, Computers, Gadgets, Gamers, Shows and Humor

Source. Own elaboration.

It should be noted that Hype Auditor is a social network analysis tool that focuses mainly on auditing Instagram and TikTok accounts. Hype Auditor uses publicly available data on these platforms and specific algorithms to provide detailed insights into influencer and content creator accounts' authenticity, performance, and engagement. Hype Auditor does not pull data directly from web pages or private data from social media but rather uses publicly available data from social platforms for reporting and analysis.

### 3. Results

#### 3.1. Paid Partnership Label vs Adword

In general, ADWs (30.34%) are more frequently employed, whether accompanied by PPL or not, to identify paid content. PPL is used to a lesser extent (7.19%), either accompanied by ADW or not. Moreover, only 2.10% of the posts utilise both types of signals simultaneously. Lastly, it is worth noting that 583 posts (64.56%) lack any form of advertising signage, featuring only a brand mention, whether tagged in the image or within the text (Table 3).

Table 3. Total use of disclosure (number and percentage)

	Only PPL (No ADW)	Only ADW (No PPL)	PPL + ADW	NO PPL + NO ADW
# publications	46	255	19	583
%	5.09	28.24	2.10	64.56

Source. Own elaboration.

### 3.2. Adwords and text placement

A majority of ADWs (86.86%) are primarily positioned at the end of the caption. Similarly, only 7.66% of posts that employ ADWs, whether with PPL or not, place it in the header. Given that the visible character count in an Instagram feed post on a mobile device is estimated to be between 125-150 characters, it implies that users probably have to click to expand the caption fully in order to identify the commercial content (Table 4).

Table 4. ADW placement (in percentage)

	Header	Middle	End
Publications with ADW	7.66	5.47	86.86

Source. Own elaboration.

Only the ADW 'Ambassador' is primarily located in the header of the caption (87.50%), though it appears in only 0.89% of the posts (Table 5).

Table 5. Top ADWs and text placement (in percentage)

	Percentage	Header	Middle	End
*publi	3.77	2.94	0.00	97.06
#publi	3.21	17.24	3.45	79.31
ad	2.66	0.00	0.00	100.00
#encolaboracion	2.44	0.00	0.00	100.00
#ad	1.88	0.00	11.76	88.24
Publi	1.88	17.65	11.76	70.59
publi	1.88	0.00	5.88	94.12
*Publi	1.33	25.00	0.00	75.00
Ad	1.33	8.33	8.33	83.33
AD	1.11	0.00	0.00	100.00
Embajadora	0.89	87.50	12.50	0.00

Source. Own elaboration.

Regarding engagement, it is observed that the average number of comments, likes, and thus, the Engagement Rate (ER) of posts with ADW at the end of the caption (without PPL) is higher than when the ADW is positioned at the beginning or in the middle of it. The average number of comments when the ADW is at the end is 202.85 comments, compared to 88.53 comments when placed in the header. In terms of ER, posts with ADW at the end of the caption achieve a higher average engagement rate compared to those placing it in the header (ADW.End.ER = 2.22, SD = 2.40; ADW.Header.ER = 1.94, SD = 2.58) (Table 6).

Table 6. Relation between Text placement and ER/Comments/Likes (only posts with ADW but not PPL)

	Header	Middle	End
Engagement Rate	1.94%	0.63%	2.22%
Comments Average	88.53	44.33	202.85
Likes Average	24.259.76	4286.5	15.617.65

Source. Own elaboration.

Finally, across all categories, ADW is predominantly positioned at the end of the caption. Specifically, the "Fashion" category has the highest percentage of ADWs placed in the header of the caption (T.1 = 11.85%), followed by "Earth" (T.3 = 4.30%). The categories that least frequently position ADW at the beginning of the caption are "Health" (T.2 = 2.86%). "Celebrities" and "Gamers" never do so (Table 7).

Table 7. Relation between text placement and type of influencers (in percentage)

	Category	Header	Middle	End
T1	Fashion	11.85	5.93	82.22
T2	Health	2.86	14.29	82.86
T3	Earth	4.30	1.08	94.62
T4	Celebrities	0	0	100
T5	Gamers	0	12.50	87.50

Source. Own elaboration.

### 3.3. Adword families from different lexemes

On the other hand, there is clear heterogeneity in the ADWs used to indicate paid content (47 ADWs), although they can be grouped into 4 families with 4 distinct lexemes: "publi-" (the abbreviation in Spanish for "advertising"), "ad-", "colab-", and "embaj-" (the abbreviation in Spanish for "ambassador"). The top five most frequent ADWs are \*publi (3.77%), followed by #publi (3.21%), ad (2.66%), #encolaboracion (#incollaboration) (2.44%), and #ad (1.88%). (Table 8)


### 3.4. Before and after the Law

The results show that after the General Audiovisual Communication Law came into effect on July 7, 2022, there was a decrease in unmarked posts (25.12%). Specifically, the percentage of unmarked posts decreased from 87.1% to 61.98%. Consequently, the exclusive use of the paid partnership label (PPL) increased slightly (2.08%), and the use of adwords (ADW) within the text increased more significantly (24.29%). In contrast, the



percentage of posts using both typologies simultaneously to identify a paid publication decreased, specifically from 3.23% to 1.98% (Table 9).

Table 8. ADW Lexeme

Lexeme 1	Lexeme 2	Lexeme 3	Lexeme 4	Others
*publi	ad	#encolaboracion	Embajadora	#brandpartner
#publi	#ad	En colaboración con	#Embajadora	Invitada por
Publi	Ad	en colaboración con	Como embajadora	
publi	AD	#colaboración	*embajadora	
*Publi	#AD	#colab	embajador	
(publi)	#Ad	*Colaboración		
#Publi	*AD	pagada con mi marca		
#publicidad	A D	favorita 		
publi*	*ad	ColabViajera		
#PUBLI	ad*	Colaboracion pagada		
*PUBLI	adv	Colaboración con		
PUBLI		Post colaborativo		
Publi*		Post en c0lab con		
PubliiViajera		colab		
p u b l i				
Publideviajes				

Source. Own elaboration.

Table 9. Total use of disclosure before and after the law (in percentage)

	Only PPL (No ADW)	PPL + ADW	Only ADW (No PPL)	NO PPL + NO ADW
Before Law	3.23	3.23	6.45	87.1
After Law	5.31	1.98	30.74	61.98

Source. Own elaboration.

However, there is an increase of 4.69% in publications that only use the brand mention (@brand) in the text and do not use PPL, ADW, or the brand label in the image. In particular, it went from 87.5% before the law to 92.19% after the Law. It's hard to tell if this is commercial content or not. This increase in content with brand mention exclusively in the text is difficult to interpret, since it is complicated to know if it is commercial content or not.

Additionally, there is a noticeable increase of 7.92% in posts that indicate paid content using an ADW at the beginning of the caption. Likewise, the use of ADW at the end of it increases by 9.39% (Table 10).

Table 10. ADW Text placement before and after the law (in percentage)

	Header	Middle	End
Before Law	0	22.22	77.78
After Law	7.92	4.91	87.17

Source. Own elaboration.

### 3.5. The behaviour of engagement

When a sponsored post is marked with both PPL and ADW, it receives a higher Engagement Rate (ER=3,47%, SD=2,91) than in the other cases (see Table 2). It appears that users reward clear identification of paid content with higher engagement.

We also observe that exclusive use of PPL achieves a higher average Engagement Rate (ER=2.87%, SD=2.29) than using ADWs alone (ER=2.13%, SD=2.38%). Furthermore, the total average engagement (likes and comments) of posts marked with both labels (PPL and ADW) is 33.51% higher than the average engagement of unmarked posts (Table 11).

To conclude, when neither PPL nor ADW is used within the caption of the post, the engagement rate is similar (ER=2.80%, SD=6.37%) to when PPL is used exclusively (ER=2.87%, SD=2.29%). At this point, it should be clarified that the high standard deviation (SD) in the engagement rate of unmarked posts may be due to the fact that it constitutes the largest data group (583 posts), making it evident that there are significant differences in engagement between influencers with, for example, 70K followers and those with 2.6M followers. This characteristic of the sample can result in data dispersion within this group (No PPL + No ADW). However, this consequence is considered inherent to the nature of the studied phenomenon and does not necessarily indicate a lack of reliability.

Table 11. Relation between disclosure and ER/Comments/Likes

	Only PPL (No ADW)	Only ADW (No PPL)	PPL + ADW	NO PPL + NO ADW
Engagement Rate	2.87	2.13	3.47	2.80
Comments Average	147.91	187.76	43.21	157.47
Likes Average	23.187.87	15.660.56	25.868.16	19.250.88
Total Interaction Average	23.335.78	15.848.33	25.911.37	19.408.36

Source. Own elaboration.

### 3.6. Type of influencers and disclosure

The categories that use PPL to disclose paid content at the highest percentage (with or without ADW) are "Gamers" (T5 = 23.52%) and "Earth" (T3 = 11.59%). The categories that use PPL the least are "Health" (T2 = 1.06%) and "Celebrities" (T4 = 0), which never use it. Moreover, the category that most frequently uses both PPL and ADW simultaneously is "Gamers" (11.76%), while "Celebrities" remains the category that never does so. Finally, the categories that disclose with PPL or ADW the least, while including at least one brand mention, are "Celebrities" (T4 = 95.95%) and "Health" (T2 = 80.95%) (Table 12).

Table 12. Type of influencers and use of PPL and ADW (in percentage)

	Category	Only PPL (No ADW)	PPL + ADW	Only ADW (No PPL)	NO PPL + NO ADW
T1	Fashion	6.67	1.54	33.08	58.72
T2	Health	0.53	0.53	17.99	80.95
T3	Earth	7.30	4.29	35.62	52.79
T4	Celebrities	0.00	0.00	4.05	95.95
T5	Gamers	11.76	11.76	35.29	41.18

Source. Own elaboration.

### 3.7. Influencers brand mentions and disclosure

In the study, four categories of influencers were established based on the average number of brand mentions observed on their Instagram accounts. The results show that influencers with a high level of brand mentions (BM high = 21-30) are the ones who use PPL to disclose paid content the most, with or without ADW (10.06%). Conversely, influencers with a low level of brand mentions (BM low = <10) in their content only use PPL to disclose 1.59% of their posts. Additionally, influencers with a very high level of brand mentions (BM very high = >30) in their content disclose with both ADW and PPL simultaneously in 2.28% of their posts, while influencers with a low level of brand mentions (BM low = <10) never do so (Table 13).

Table 13. Influencer classification according to the number of brand mentions and use of PPL and ADW (in percentage)

	#	Only PPL (No ADW)	Only ADW (No PPL)	PPL + ADW	NO PPL + NO ADW
BM low = <10	63	1.59	28.57	0	69.84
BM medium = 11-20	155	3.87	34.84	3.23	58.06
BM high = 21-30	159	8.81	18.87	1.26	71.07
BM very high = >30	526	4.75	29.09	2.28	63.88

Source. Own elaboration.

## 4. Discussion and conclusions

Recent studies indicate that Instagram users pay more attention to the paid partnership label (PPL) than to advertising adword (ADW) when it comes to identifying paid content from influencers. Furthermore, they also show that, in over half of the cases, ADWs go unnoticed, whether they are placed at the beginning or end of the caption (Boerman & Müller, 2021, p. 25). Therefore, given that our results reveal a higher usage of ADWs (30.34%) than PPL (7.19%), this research confirms that the visibility of advertising disclosures in Spanish influencer content is insufficient and ineffective (SO1).

Additionally, the fact that ADWs are predominantly placed at the end of the caption (86.86%) requires the user to perform an additional interaction to read the content in its entirety and identify the post as commercial. This compromises the visibility of advertising disclosures, adding an extra level of complexity to the persuasive identification process. Since mobile phones are the primary device for accessing social media platforms (97%) (IAB Spain, 2022), it can be inferred that a vast majority of users do not see the disclosures. Thus, it is challenging to activate user advertising literacy processes to evaluate the pros and cons of persuasive communication (Buijzen *et al.*, 2010; Friestad & Wright, 1999) (SO2).

Despite the lack of effectiveness in disclosures, it is demonstrated that the General Audiovisual Communication Act, in effect since July 7, 2022, in which, for the first time, influencers were directly required to properly disclose their commercial posts, has had a positive effect. It is confirmed that undisclosed posts decreased (25.12%), resulting in an increase in those identified as commercial. However, it is important to note that the type of disclosure that increases the most after the Law is the least effective (ADW. 24.29%), and the one that increases the least is the most effective (PPL. 2.08%) (SO3).

At this point, it should be noted that the new regulation proposed only specifies that "audiovisual commercial communications must be clearly distinguished from editorial content by optical and/or acoustic and/or spatial means" and that sponsored content must be properly identified so as "not to mislead the public about the nature of such presentation." (Law 13/2022 on Audiovisual Communication). As we can see, it does not establish the most effective way to identify commercial content but leaves it to the influencer's discretion.

Due to this lack of precision in the law, the methods of disclosing commercial content identified in this study are heterogeneous and do not take into account the effectiveness of the type of disclosure. The 47 ADWs identified, their varying levels of visibility depending on their placement, and the large number of posts mentioning a brand but lacking any advertising disclosure (64.56%) underscore the urgent need for greater

precision in the law. It is necessary to reduce ambiguity in commercial relationships between influencers and brands to promote transparency within influencer marketing.

However, if the law is ambiguous, Instagram is not at all. The social network requires the use of the most effective disclosure label (PPL) for any type of paid content from influencers, including non-monetary transactions. Thus, invitations to events, product gifts, sponsored trips, or other forms of compensation are classified by Instagram as branded content and must be correctly identified with the Paid Partnership Label (Instagram Help Center, n.d.). Instagram is very clear on how to disclose and what to disclose as commercial content. The issue remains that its value is not binding or regulating.

A particularly controversial issue is the effect of commercial content on user behaviour within the internet. There are studies that suggest that users engage more with clearly sponsored posts (Gross & Wangenheim, 2022, p. 304) and that the disclosure of paid content can increase influencer credibility and positively affect consumer responses (Abdullahi, 2020, p. 18). On the other hand, there are studies warning that brand-sponsored content can reduce young people's desire for the advertised product when they understand the intent to sell (Boerman & Van Reijmersdal, 2020, p. 12); and even research suggesting that brand endorsements by influencers can generate negative responses among their followers (Sundermann & Munnukka, 2022).

In light of the results of this study, which confirm that clear disclosure of commercial posts (PPL+ADW) is rewarded with a higher average number of likes and a higher engagement rate, a conclusion supported by those studies that suggest positive user behaviour towards paid content, suggesting a positive user response to paid content. Or at least, as we mentioned in the introduction, it is suggested that followers feel "comfortable" with advertising within influencer content and even reward it with greater interaction (SO4).

However, the fact that influencers with more brand mentions effectively disclose their paid posts (PPL) may be due to their higher level of brand collaboration and, consequently, greater pressure to minimise possible sanctions by brands and their representation agencies. As for the relationship between the thematic content of each influencer and their effectiveness in disclosing commercial content, the conclusions are more diffuse and warrant further investigation (SO5).

Regarding the level of critical processing activated by the user in response to persuasive content, various factors determine it, such as communication style and message integration with the context (Buijzen *et al.*, 2010, p. 441). For example, informative content leads to systematic and elaborate processing, while entertainment-based content leads to moderate or low processing. Also, the level of integration of the persuasive message with its context affects the processing level. If the persuasive message is highly integrated into the editorial context of the medium, it triggers automatic processing or low perception of persuasion (Van Reijmersdal, 2009, p. 152).

In influencer marketing, messages are highly integrated into the influencer's organic content. According to the results of this study, the line between paid advertising and organic content is confusing and inadequate. Consequently, it is more likely that the influencer marketing audience activates a moderate or low level of persuasive processing rather than a systematic process of critical content analysis.

To conclude on a hopeful note, given the variety of self-regulatory standards and codes existing among European Union countries concerning the influencer figure, in a report on the subject, the European Economic and Social Committee (EESC) has emphasised the need to commit to regulatory harmonisation of content creator activity within the framework of the European Union.

## 5. Limitations and further research

In the course of our study we analysed Instagram posts that included brand mentions. However, our research has limitations. One of them relates precisely to the identification of sponsored content. Despite our meticulous scrutiny, the possibility remains that some of the posts examined were not advertisements, but genuine recommendations from influencers. The inadvertent inclusion of non-sponsored content could potentially affect the accuracy of our data.

Another limitation relates to the temporal scope of our study. It would be advisable to extend the study period beyond our current timeframe. This extension would allow us to assess whether the impact of the law has been gradual or whether it has led to substantial changes in influencer practice over time.

In the realm of future research, there are two distinct paths to consider. The first involves a cross-cultural analysis, where replication of our study in different cultural contexts, such as France, can provide valuable comparative data.

The second avenue for future research lies in the diversity of social media platforms. Platforms such as TikTok, which attract younger and more impressionable audiences, warrant examination. Evaluating the effectiveness and adherence to disclosure laws on platforms catering to minors is critical, as it can contribute to safeguarding vulnerable audiences from potentially misleading influencer marketing practices.

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The anonymised data of this study can be requested from its authors.