[NL] Dutch regulators recommend new measures to protect children from influencer advertising

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On 7 October 2024, the *Samenwerkingsplatform Digitale Toezichthouders* (Dutch Digital Supervisory Cooperation Platform – SDT), which is comprised of four major Dutch regulatory authorities, published a significant recommendation that additional measures are needed to protect children and young people from social media influencer marketing. The SDT is an important regulatory cooperation platform established in 2022 by the Netherlands Authority for Consumers and Markets (ACM), the Netherlands Authority for the Financial Markets, the Dutch Data Protection Authority, and the Dutch Media Authority to coordinate enforcement in the digital sector (see IRIS 2023-5/16 and IRIS 2022-4/20). Following its latest commissioned report on influencer marketing, the SDT regulators state that the current rules for influencer marketing "appear to fall short in protecting children and young people", and children "often have difficulty recognising this form of advertising". Crucially, the SDT recommends "additional measures" to protect this vulnerable group from commercial influence.

The report begins by noting that when influencers promote products, under the Dutch Media Act and Social Media and Influencer Marketing Code (see IRIS 2023-10/18), influencers must be transparent about product promotion. In many cases, influencers are required to include a sponsorship notice with their message, stating that they receive compensation or another benefit for a message. The SDT's report examines how such a sponsorship notice can best be designed. The more conspicuous the sponsorship notice, the better: this leads to the mention being noticed by followers sooner. For example, the report's research shows that sponsorship notices are most effective when they are placed in written text in the top left corner, or at the bottom, of an image or video. In addition, for videos, sponsorship notices are best shown before the video, for at least six seconds. Uniformity of such notices also contributes to better recognition. Social media platforms themselves also offer standard notices. However, many influencers do not use them. One of the reasons for this is that they are afraid of the negative consequences of clear sponsorship notices.

Notably, the report states that children and young people are less aware of the persuasive techniques that influencers and brands use. Children recognise advertisements less well, even when sponsor mentions are shown. Even when they do recognise advertisements, children look less critically at sponsored

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messages than adults. This can be problematic, because it makes them more susceptible to influence. For minors, it is therefore important to explicitly state that the influencer was paid to ensure that followers like the product shown.

Crucially, according to the SDT regulators, additional measures are needed to protect minors. In this regard, a notable recommendation is that influencer marketing by influencers with a smaller reach should also be captured by regulation. The SDT regulators "want to include smaller influencers under the Media Act – and therefore under the supervision" of the Dutch Media Authority. Currently, and since 2022, the Media Authority has been monitoring the "most influential" influencers who are required to register with the Authority under the Media Act, namely those with 500 000 or more followers or subscribers (see IRIS 2023-10/18). Further, in its supervision, the Media Authority will pay specific attention to sponsorship mentions by influencers who target their content at children. Notably, clearer formulations of sponsor mentions are particularly important for young children, and more striking versions of standard statements can further increase advertising recognition for children. Finally, in order to make sponsor mentions work even better for children and young people, there should be a focus on media education at school, while influencers can also contribute to this by sharing messages or videos in which they explain (the use of) sponsorship mentions.

Autoriteit Consument & Markt, Extra maatregelen nodig voor minderjarigen om influencer-reclame te kunnen herkennen, 7 oktober 2024

https://www.acm.nl/nl/publicaties/extra-maatregelen-nodig-voor-minderjarigen-om-influencer-reclame-te-kunnen-herkennen

Dutch Authority for Consumers and Markets, Additional measures needed for children to recognise influencer advertising, 7 October 2024

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