[FR] Influencer marketing rules brought into line with European law

IRIS 2025-1:1/20

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On 6 November 2024, in the light of observations by the European Commission in particular, a decree was passed to amend the law of 9 June 2023, which regulates influencer marketing and seeks to combat abuses by influencers on social networks (see IRIS 2023-6:1/10), in order to bring it into line with European law. The decree was issued pursuant to Article 3 of Law no. 2024-364 of 22 April 2024, which contains various provisions adapting national law to European Union law in the fields of economy, finance, environment policy, criminal law, social law and agriculture (DDADUE), in order to ensure that certain provisions comply with various EU laws. In particular, it details the ban on certain types of health-related influencer marketing, clarifies the wording of applicable sanctions and eases the requirement for consumers to be informed about edited and virtual images in the light of the rapid development of technologies and legal standards (especially the EU Artificial Intelligence Act of 13 June 2024). The decree also aims to safeguard the country-of-origin principle enshrined in the 2010 Audiovisual Media Services Directive (AVMSD) and the Electronic Commerce Directive, and lists various exceptions to this rule. It also brings provisions on the labelling of advertising into conformity with European law (in accordance with the 2005 Unfair Commercial Practices Directive): labels must be “clear, legible and identifiable”, but no longer need to be displayed “throughout the advertisement”. Article 9 of the law is amended in order to clarify that it applies to influencers living abroad who target audiences in France (for the appointment of a legal representative and conclusion of civil liability insurance in the European Union). The definition of influencer marketing (Art. 1) and provisions governing the activities of influencer agents (Art. 7) and influencer marketing contracts (Art. 8) remain unchanged.

A ratification bill will need to be brought before the French Parliament within three months of the decree’s publication, i.e. before 7 February 2025.

Ordonnance n° 2024-978 du 6 novembre 2024 modifiant la loi n° 2023-451 du 9 juin 2023 visant à encadrer l'influence commerciale et à lutter contre les dérives des influenceurs sur les réseaux sociaux, JORF du 7 novembre 2024

https://www.legifrance.gouv.fr/download/pdf?id=nnKsSCPW60ezk7NlP1zrGB4APX7KalcLgYeuznhj5ZE=

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Decree no. 2024-978 of 6 November 2024 amending Law no. 2023-451 of 9 June 2023 regulating influencer marketing and combating abuses by influencers on social networks, OJ of 7 November 2024

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