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Legal liability of digital influencers for damages caused to followers: limits

Freedom of expression and responsibilities in the digital age.

Legal liability of digital influencers for damages caused to followers: limits of freedom of expression and duties in the digital age

Legal responsibility of digital influencers for damages caused to followers: limits of freedom of expression and rights in the digital era

Jordanna Lima do Carmo Facundo[1]
Neilton José dos Santos[2]
Dr. Vera Mônica Queiroz Fernandes Aguiar[3]

ABSTRACT

This article analyzes the legal responsibility of digital influencers for damages caused to their followers, especially regarding the limits of freedom of expression in the digital age. With the exponential growth of social networks, these agents have come to exert significant influence over consumer behavior and decisions, potentially generating financial losses, health damage, and serious psychological impacts. The research seeks to understand to what extent freedom of expression can be limited in the face of the need to protect personality rights and consumer rights. A qualitative methodology is used, with a legal-doctrinal approach, based on the analysis of Brazilian legislation, specialized doctrine, and...

jurisprudence from higher courts. The results indicate that, although freedom of expression is a fundamental right enshrined in the 1988 Federal Constitution, its exercise must respect limits when there is a risk or actual occurrence of harm to third parties. It is concluded that influencers can be held civilly liable, especially in cases of misleading advertising, omission of risks, or violation of the duty to inform, making the creation of specific regulations for this segment urgent.

Keywords: Digital influencers. Civil liability. Freedom of expression. Consumer law. Digital law. Misleading advertising.

ABSTRACT

This article analyzes the legal liability of digital influencers for damages caused to their followers, especially regarding the limits of freedom of expression in the digital era. With the exponential rise of social media, influencers have gained significant power to shape behavior and consumer decisions, which may result in financial, health, and severe psychological damages. The research aims to understand the extent to which freedom of expression can be limited in light of the protection of personality and consumer rights. A qualitative methodology was employed, based on legal doctrine, Brazilian legislation, and case law analysis from higher courts. The results indicate that although freedom of expression is a fundamental right enshrined in the 1988 Federal Constitution, its exercise must be subject to limits when there is a risk or actual harm to third parties. It is concluded that influencers may be held civilly liable, especially in cases of misleading advertising, omission of risks, or breach of the duty to inform, and that specific regulation for this segment is urgently needed.

Keywords: *Digital influencers. Civil liability. Freedom of expression. Consumer law. Digital law. Misleading advertising.*

[1] Jordanna Lima do Carmo Facundo. E-mail: jordannafacundo@gmail.com. Article submitted to UNISAPIENS. as a requirement for obtaining a Bachelor of Laws degree in Porto Velho/RO.

[2] Neilton José dos Santos. E-mail: neiltonnosso@gmail.com. Article submitted to UNISAPIENS as a requirement. to obtain a Bachelor of Laws degree in Porto Velho/RO.

[3] Supervising Professor Vera Mônica Queiroz Fernandes Aguiar. Professor of the Law course. Email: vera.aguiar@gruposapiens.com.br.

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1 - INTRODUCTION

Contemporary society is experiencing a profound transformation resulting from the expansion of digital technologies and the consolidation of social networks as communication tools in Mass influence and behavioral influence. In this scenario, digital influencers emerge as prominent agents, capable of influencing consumer decisions, social behaviors, and even... even aspects related to the health and well-being of millions of people.

According to data from the Digital 2024 report, prepared by the We Are Social platform in Through a partnership with Meltwater, Brazil has over 144 million active social media users. which places it among the largest digital markets in the world (WE ARE SOCIAL; MELTWATER, 2024).

It is noted that Brazil is among the largest and most active digital markets, recognized globally, commonly ranking among the four fundamental areas of social media and e-commerce consumption. commerce. It also leads the development of e-commerce in Latin America. stimulated by the high penetration of mobile phones and the strong adoption of marketplaces, such as Mercado Libre, Amazon, and Shopee, among others.

The context enhances the performance of digital influencers, who have come to play a role. similar to traditional advertising, often without regard for the rules that govern it. Activity in Brazil. Digital influencers shape concepts, behaviors, and consumer preferences. of their followers, acting as content creators and, necessarily, as showcases Strategic tools for major brands on social media. And, with high engagement, they drive the market. through advertising, videos and partnerships, becoming jointly responsible for transparency and ethics. in exhibitions.

This new reality poses challenges to the law, especially regarding the delimitation of its boundaries. Freedom of expression in the face of the possibility of causing harm to others. As highlighted Schreiber (2019, p. 15), "civil liability has undergone a transformation in recent years." radical in its foundations, broadening the concept of compensable damage and expanding the "Mechanisms for assigning responsibility."

It can be inferred that civil liability is undergoing a structural transformation, migrating from the realm of... The concept of harm shifts from punitive and subjective to an essentially reparative and preventative role. It expanded to include: existential damage, loss of opportunity, environmental and technological risks, while the Strict liability is gaining traction, establishing compensation based on the risk of the activity. and never solely attributing blame to the offender.

The peculiar point of this article lies in understanding to what extent freedom of expression

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The use of digital influencers can be exercised without generating any civil liability for them.
individuals within a social context.

Here in Brazil, freedom of expression is guaranteed primarily by Article 5, sections IV and IX, and by...
Article 220 of the Political Charter. The aforementioned provisions guarantee the free expression of...
thought, artistic, scientific and communication creation, regardless of censorship or
License is required, and anonymity and censorship of a political, ideological, or artistic nature are prohibited.
It should be noted that, in this matter, item X of article 5 of the 1988 Constitution is therefore inviolable.
intimacy, private life, honor and image of individuals, guaranteeing the right to compensation for
Material or moral damage resulting from its violation. This is a fundamental right that protects
personal life.

However, it should be noted that freedom of expression is not an absolute right and has limits.
legal and ethical principles, grounded in the need to safeguard other constitutional rights, the
An example of human dignity, honor, security, and democracy. The excess of this...
The aforementioned right may lead to future liability, including penalties in various spheres.
civil and criminal.

It is noted that the Federal Constitution of 1988 is embodied in the preamble of its article 1 and item III,
that the Federative Republic of Brazil, composed of the indissoluble union of the States and Municipalities and
The Federal District establishes itself as a Democratic State of Law and has as its foundations,
Among other things, the dignity of the human person.

The relevance of the subject discussed in this article is therefore justified by the increasing judicialization of
lawsuits are increasingly focused on misleading advertising, digital fraud, and damages to...
health problems resulting from content shared by influencers.

Barbosa (2019) notes that cases involving illicit advertising by influencers
Digital courts have grown significantly, highlighting the need for...
a specific regulatory framework for this category of economic agents.

The growth is quite evident in the base of micro and nano-influencers, focused on niches.
characteristic, which generates high levels of trust. Thus, influencers are responsible for
to influence a large part of the purchasing decisions of the Brazilian people, redefining consumption habits.

Furthermore, the career of digital influencers presents a promising scenario, with creators who
They aim for authenticity and a more assertive tone to engage their followers. Furthermore, the
The market is facing debates regarding the regulation of the topic, with several proposals currently under consideration.
to deliberate on the role and responsibilities of digital influencers. It is important to
emphasize that the overall objective of this article is to analyze the legal responsibility of
Digital influencers from the perspective of current Brazilian legislation, considering the doctrine.

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specialized and the jurisprudence of Brazilian courts.

This article seeks to characterize digital influencers as equivalent suppliers.

examining the fundamentals of civil liability applicable to this field, analyzing the

The main types of harm caused to followers and a discussion of the need for regulation.

specific to the aforementioned activity.

2 - MATERIALS AND METHODS

The research is of a legal-doctrinal nature, with a qualitative approach and deductive method.

starting from normative analysis for application in specific cases.

In accordance with Gustin and Dias (2013), qualitative legal research seeks

to understand the social relations that overlap with legal norms, going beyond analysis.

simply exegetical interpretation of legal norms.

Therefore, the following regulatory instruments were analyzed:

The 1988 Federal Constitution, especially articles 5, IV, IX and X; the Civil Code (Law No. 10.406/2002), notably articles 186, 187 and 927; the Consumer Protection Code (Law No. 8.078/1990), especially articles 2, 3, 12, 14 and 37; the Marco Civil da Internet (Law No. 12.965/2014); the General Data Protection Law (LGPD) (Law No. 13.709/2018), as amended by Law No. 13.853/2019; Law No. 15.325/2026; Resolution No. 163/2014 of the National Council for the Rights of Children and Adolescents (CONANDA).

Furthermore, judicial decisions from national courts of justice began to be analyzed, as well as...

such as the guidelines of the National Council for Advertising Self-Regulation (CONAR), with

Emphasis is placed on Resolution No. 174/2020, as well as the Influencer Advertising Guide.

Digital of 2021.

It should also be noted that the literature review for this article included a study of the doctrine.

Specialized in civil liability, consumer law, and digital law.

3 - RESULTS

It is worth emphasizing that the present research revealed the following results.

The main points, after studying the subject, are as follows:

Digital influencers can be classified as equivalent suppliers, under the terms

of article 3 of the Consumer Protection Code (CDC), when its action is part of the chain of

The provision of products and services is paid and habitual.

The liability of influencers can be both subjective (article 186 of the Civil Code [CC])

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as to the objective (article 14 of the CDC), depending on the framework of the established legal relationship.
between the influencer, the advertising company, and the consumer themselves.
Brazilian jurisprudence recognizes the joint and several liability of influencers with respect to...
companies that hire their services, especially in cases of misleading or abusive advertising.
The lack of specific regulations for digital influencers contributes to their proliferation.
of abusive practices, making it necessary to create a regulatory framework that establishes duties
Clear principles of transparency, information, and accountability.

4 - DISCUSSION

4.1 Digital Influencers as Economic Agents and Equivalent Suppliers

It is noted that digital influencers have ceased to be mere communicators and have become...
actively integrate the consumption chain. According to Silva and Viana (2023, p. 45):

> "The activity of digital influencers transcends the realm of mere personal expression, configuring itself as a true economic activity, with profit-making purposes and a direct impact on consumer relations."

Therefore, it is clear that the activity of digital influencers has become established as a professional and...
commercial, going beyond mere personal expression. So much so that Law No. 15.325, of 06/01/2026, does not
It creates the profession of influencer, but formally recognizes a digital ecosystem that already exists.
It moves billions. Its impact is especially contractual and interpretative and tends to shape, from
In a definitive way, the relationships between content, the market, and responsibility in the digital environment.
In Brazil, the new legislation of 2026 imposes rights and responsibilities, as influencers
Digital companies act as suppliers in the consumer chain and, therefore, are jointly liable for
all types of misleading advertising.
Furthermore, the activity of digital influencers is analyzed as an economic activity, both
which is formally recognized in the Brazilian Classification of Occupations (CBO) under number
2534-10. Thus, according to the Communication Portal (2022), with more than 14 million
In Brazil, this activity involves content production, advertising, and...
marketing, generating significant financial activity and impacting consumption, thus becoming established
as a contemporary activity.
The Consumer Protection Code, in its article 3, defines a supplier as any natural person or
legal entities, whether public or private, national or foreign, as well as unincorporated entities that
They carry out activities of production, assembly, creation, construction, transformation, import,

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Export, distribution or marketing of products or provision of services.

Therefore, the prevailing doctrine already understands that influencers fall within this definition.

when they carry out their activity in a habitual and remunerated manner. In this sense, Miragem (2022, p.

132) clarifies that:

> The integration of the digital influencer into the supply chain is not merely formal. When this agent receives remuneration — directly or indirectly — to promote products or services, they begin to perform a function identical to that of a traditional advertiser, and are therefore subject to the same legal obligations and the legal consequences arising from any irregularities in their actions. (MIRAGEM, 2022, p. 132).

When a digital influencer becomes part of a product and service supply relationship, earning,

Therefore, some remuneration for this, and publicizing the aforementioned activity, plays a similar role.

In contrast to classic advertising, the company should be held legally responsible for any potential irregularities.

resulting from this activity in the digital market, due to its highly visible nature.

Resolution No. 174/2020 of the National Council for Advertising Self-Regulation (CONAR),

Approved in December 2020, it established the Influencer Advertising Guide, which

It established clear guidelines for identifying commercial content on social media.

Stating that any commercial relationship, whether financial or not, must be explicit,

transparent and understandable to the consumer, avoiding disguised advertising.

The National Council for Advertising Self-Regulation (CONAR), through its Resolution

Decree No. 174/2020 stipulated that influencers must clearly identify paid content with

Tags such as "#publi", "#parceria" or "#ad" are prohibited, and may result in liability for advertising.

Deceptive. This resolution represented a significant step forward, although it lacks coercive force.

equivalent to that of a formal law, in which studies indicate that the actions of these agents can induce

This can lead consumers into error, especially when there is a lack of transparency regarding the advertising nature of the...

mentioned posts.

According to Exame (2025), Brazil is the country with the largest number of digital influencers.

Worldwide. There are 3.8 million content creators in a market that generates R$ 20 billion.

per year. There are more influencers than doctors.

Also according to Exame (2025), it is understood that there are surveys that show that, between 2015

By 2025, the Brazilian National Congress had received 88 draft laws aimed at regulating

the activity, whose justifications reveal a dubious structure.

Indeed, in some cases, the figure of the digital influencer represents a great risk for

society, due to its own lack of ethics and transparency and by acting for commercial purposes,

receiving some form of compensation for promoting products, services, or ideas.

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According to research conducted by the Brazilian Institute for Consumer Protection (IDEC) in 2022,
More than 60% of Brazilian consumers cannot clearly identify when a
Content published by a digital influencer is of an advertising nature, which demonstrates that...
vulnerability of the public in the face of these practices (IDEC, 2022).

It can be seen that IDEC, although created on July 21, 1987, actively participates in the oversight of
digital influencers, holding them responsible for misleading advertising, especially in
Campaigns targeting children, as well as the promotion of ultra-processed products.
The institution argues that, by profiting from constant publicity and advertising, influencers
Digital companies are considered equivalent to suppliers and, therefore, must comply with the provisions of the Code of Consumer Protection.

IDEC corroborates that digital influencers, by influencing purchasing behavior and receiving...
Therefore, it is jointly liable for all damages caused to the consumer, in accordance with the
which is what the CDC dictates. The institution demands high visibility for paid advertising, waging war.
through the camouflaged inclusion of products in the daily lives of followers. And, furthermore, IDEC monitors the
Internet advertising to curb abuse against children, who are considered very vulnerable.

4.2 Civil Liability in the Digital Environment

Civil liability is based on articles 186 and 927 of the Brazilian Civil Code. Article 186
It establishes, however, that whoever, through spontaneous action or omission, negligence or recklessness,
To infringe upon the rights of others and cause harm, even if only moral, constitutes an act considered unlawful.
And article 927 of the same *Code* clearly stipulates that whoever, by an unlawful act, according to articles...
Articles 186 and 187 of the 2002 Civil Code also establish that, when causing damage to
The other party is compelled to repair the damages caused.
However, for subjective civil liability to be established, the presence of... is required.
four essential elements: an act of commission or omission; the agent's fault or intent; and actual damage.
and a causal link between the conduct and the damage.

Cavalieri Filho (2020, p. 23) observes the following regarding the topic; let's see:

> Damage is undoubtedly the main obstacle in civil liability, because without damage, there is no basis for compensation or reparation, rendering any discussion of the other prerequisites pointless.

It is noteworthy, from the understanding transcribed above, that harm constitutes a fundamental element and
Essential for the existence of compensation. Without proof of damage, there is no obligation to pay.
To repair, which makes the damage the core of civil liability.

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The scholar Dias (2011) already told us that responsibility is, therefore, the consequence of the action.
through which a man manifests his behavior in the face of this duty or obligation. If
Act in the manner indicated by the canons; there are no benefits, as it is superfluous to inquire about the...
responsibility arising therefrom.

Civil liability, therefore, consists of the duty to compensate for damage caused to another. Thus,
The obligation to compensate arises from the commission of an unlawful act. Therefore, no one may commit such acts.
that cause harm to the property or non-property rights of the holder of said right.

Furthermore, when the relationship involves consumers, the Consumer Protection Code (CDC) applies, which recognizes liability.
The service provider's objective liability applies, regardless of fault.

Article 14, paragraph 1, of the Consumer Protection Code establishes that the service provider is liable, regardless of...
fault, for repairing damages caused to consumers by defects related to the service.
of the services he provides.

It is understood that the service provider is responsible for repairing the material damages.
or moral damages, therefore it is sufficient to demonstrate the defect, the damage and the causal link, without the need for
to prove guilt, that is, negligence, recklessness or incompetence, causing damages and, therefore
As a consequence, this creates legal uncertainty for the consumer.

Brazilian case law already recognizes the liability of influencers. The understanding
The prevailing view is that influencers can be held liable for damages arising from
Misleading advertising, even if they are not the manufacturers of the product. Thus, decisions of our
Courts have been ordering digital influencers to pay compensation for material damages.
and morals, based on the Consumer Protection Code and the Civil Code.

Gontijo and Pereira (2025, p. 78) highlight that:

> The responsibility of a digital influencer is not limited to explicitly paid advertising, but may encompass all content that, directly or indirectly, promotes the consumption of products or services, including so-called disguised advertisements.

Therefore, the responsibility of a digital influencer is not limited to paid advertising, in a way...
explicit, and may include any substance that promotes the consumption of products or services, such as,
For example, so-called disguised advertisements.

Furthermore, recent court decisions have recognized the influencer's power of persuasion.
This generates a heightened duty of care towards its audience; that consumer confidence in
The influencer is a relevant element for assessing the causal link; and that there may be
joint liability between the influencer and the contracting company, as outlined in article 7,
sole paragraph of the CDC.

It is noted that Article 7, sole paragraph, of the CDC establishes joint and several liability between

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all participants in this supply chain; that is, the consumer can sue any
one of the parties involved — manufacturer, retailer, importer, among others — to repair the damages,
Regardless of guilt, this facilitates the defense of their interests.

4.3 Relevant Case Law from the Superior Court of Justice and National Courts

Although the Superior Court of Justice (STJ) is still in the process of consolidating its
There is no specific case law regarding digital influencers; there are already fully applicable understandings.
to that segment.
With regard to liability for misleading advertising, the Superior Court of Justice (STJ) has established the understanding that...
All members of the supply chain may be held jointly liable for
CDC, regardless of which party directly committed the harmful act. This can be inferred from
judgment of Special Appeal No. 1,440,288/RS, with Justice Nancy Andrighi as the reporting judge,
issued on May 14, 2019. This precedent is fundamental for holding the influencer accountable.
that promotes a defective product or fraudulent service.
Within the context of state courts, the understanding of the Court of Justice of São Paulo stands out.
(TJSP) in the sense that the influencer who promotes a product in exchange for remuneration, without the
Once the product is delivered to the consumer, the company is jointly liable with the supplier for any consequences.
The damage caused, even if there was no intention to defraud, is evident when understanding the
judgment of the TJSP, in Civil Appeal No. 1002345-12.2022.8.26.0100, rendered by the 25th Chamber of
Private Law, judged on March 15, 2023.
It is also worth noting that the Superior Court of Justice (STJ), in the judgment of Special Appeal No. 1,201,993/SP, with Rapporteur the
Minister Paulo de Tarso Sanseverino, in a statement delivered on August 23, 2011, acknowledged that the omission of
Relevant information provided by the supplier constitutes misleading advertising by omission, under the terms of...
Article 37, § 3, of the Consumer Protection Code (CDC) is therefore sufficient to give rise to civil liability.
Regardless of the intention to deceive. It is relevant
to note that, regarding the topic involving digital influencers, all those who
Those who make up the supply chain can be held jointly liable, based on...
CDC, regardless of who directly committed the harmful act against the consumer, as well
how, in the event of omitted, non-transparent, and misleading information, there will also be
While there will be no accountability on the part of the offenders, convictions will still exist in situations where the product
should not be delivered to the consumer.

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4.4 Freedom of Expression and its Limitation by the Supreme Federal Court

The issue of freedom of expression is central to understanding the limits of the actions of...
digital influencers. The Supreme Federal Court (STF) has consolidated its understanding that...
Freedom of expression, guaranteed by Article 5, items IV and IX of the Federal Constitution.
The fundamental rights of 1988 are not absolute and must be weighed against other fundamental rights.
In the judgment of the Argument of Non-Compliance with Fundamental Precept (ADPF) No. 130, which had
with Justice Ayres Brito as rapporteur, the case was decided on April 30, 2009, regarding the non-reception of Law...
Pressed by the Federal Constitution of 1988, the STF, through the Full Court, recognized the scope of
freedom of expression in the Brazilian legal system, but expressly stressed that its
The exercise of these actions does not preclude civil and criminal liability for any excesses committed.
Mister, understand that the aforementioned decision by the STF (Supreme Federal Court) established the position that freedom of
The press and freedom of expression consists of full guarantees, prohibiting prior censorship and establishing that
Abuses should be addressed after publication, with the right to reply and compensation.
Sarmento (2017, p. 89) analyzes the issue of balancing interests between freedom of expression.
and other fundamental rights, concluding that:

> Freedom of expression, however important it may be to democracy and the development of human personality, cannot be used as a shield for the practice of illegal acts or to cause harm.
>
> unjustified harm to third parties.

Therefore, the well-established legal position is that freedom of expression must be...
exercised responsibly, therefore respecting the fundamental rights of other citizens.
The Constitution protects the freedom of expression, but not the abuse of that right, which is the responsibility of the government.
to the interpreter to promote practical agreement between the values under debate. (SARMENTO, 2017).
The 1988 Political Charter does not protect against the abuse of rights, since no fundamental right is...
Unrestricted. The exercise of a right becomes abusive and unlawful when it disregards good faith.
objective, to surpass ethical limits or to harass third parties, with freedom of expression being one of the
Examples that do not include acts considered illegal.
Streck (2018, p. 204) complements this understanding by stating that:

> Contemporary constitutional hermeneutics rejects the isolated application of principles, always requiring balancing them with other constitutionally protected values, which implies recognizing that freedom of expression can and should be limited when it clashes with human dignity or other fundamental rights.

It should be noted that modern constitutional hermeneutics rejects the separate adoption of principles.
using methods that determine a sound and adjacent interpretation of the entire Constitution

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Federal. The aforementioned approach aims to prevent contradictions and guarantee the unity of the Political Charter.
treating it as a cohesive system, and not as a set of loose rules in the legal universe.
This understanding is essential to the topic under analysis, as it provides a legal basis for the limitation.
regarding the actions of digital influencers when those actions cause harm to their followers.
They accompany the published content.

4.5 Collision between Freedom of Expression and Civil Liability

The 1988 Federal Constitution guarantees freedom of expression in its article 5, item IX, which states:
that the expression of intellectual, artistic, scientific and communicative activity is free,
regardless of censorship or licensing. However, the same constitutional provision protects
the dignity of the human person (article 1, III), the right to health (article 6), the right to adequate information
(Article 5, XIV) and consumer protection (Article 5, XXXII).
Diniz (2020, p. 56) observes that:

> No fundamental right is absolute, as all rights find their limits in other fundamental rights and in the constitutional norms that structure the Democratic Rule of Law.

This premise is fundamental to understanding the freedom of expression of influencers.
Digital rights, while constitutionally guaranteed, find a natural limit in the duty not to cause harm.
harm to third parties. The technique of balancing interests, developed by Robert Alexy (2008) and
adopted by Brazilian legal doctrine and jurisprudence, it allows the interpreter to resolve the apparent
conflict between freedom of expression and other fundamental rights, establishing, in light of
The principle of proportionality, which should prevail in the specific case.
The technique of balancing interests, developed by Alexy, is therefore considered a method.
to resolve, in specific cases, conflicts between constitutional principles related to rights.
fundamental principles are adopted through the principle of proportionality. Here in Brazil, it is used by...
Doctrine and jurisprudence, notably by the Supreme Federal Court (STF), to counterbalance tensions such as freedom.
of expression versus privacy, going beyond the austere "all or nothing" approach of the rules.
According to Sarmento (2017), balancing does not represent the banning of any of the values.
placed under tension; however, their harmonization, so that each right may be
carried out to the greatest extent permissible.

Here, then, we are talking about the Principle of Maximum Effectiveness or Efficiency of norms of a certain nature.
constitutional, particularly in the area of fundamental rights. The aforementioned principle stipulates
that public authorities decode and juxtapose the rules in order to achieve maximum effectiveness.

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possible, reducing the limitations. Remember that there isn't one specific article, but rather a...
a principle juxtaposed to the entire Federal Constitution of 1988, especially regarding social rights and
fundamental, seeking to make them real and not merely allegorical.

Modern civil liability, which is based on the constitutionalization of private law, adopts
The Principle of Maximum Effectiveness, or Efficiency, to assert that constitutional norms,
Like the dignity of the human person and fundamental rights, they possess broad and extensive scope.
Practical application in private relations. This means, therefore, that the reparation of damages follows the
realization of constitutional values, not exclusively those related to property.

Venosa (2021) emphasizes that the abusive exercise of rights, as foreseen in article 187 of the Code
Civil misconduct occurs when the holder of a right exercises it in a way that differs from its economic objective or
social, good faith, or moral integrity, characterizing an unlawful act that gives rise to liability.

Finally, it should be noted that legal provisions must observe the principle of legality, as provided for.
Article 5, item II, of the 1988 Constitution is a provision directly applicable to influencers who...
Even when protected by freedom of expression, it begins to exceed the ethical, legal, and moral limits of
your performance.

4.6 Typology of Damages Caused by Digital Influencers

The main damages identified in this article can be classified into three broad categories.
The financial losses verified, especially in cases of scams perpetrated through partnerships.
fraudulent practices, advertising products that are never delivered (the so-called "disappearances of
influencers), recommending investments without technical backing and promoting scams
Ponzi scheme.

According to a report by the Central Bank of Brazil (2023), the volume of digital fraud in the country has increased.
65% between 2020 and 2022, with social media being the main vehicle for disseminating these practices.
abusive.

The health risks identified in the promotion of restrictive diets without nutritional supervision,
in the promotion of medicines and supplements not registered with the National Health Surveillance Agency
Sanitary authority (ANVISA), in recommending aesthetic procedures without scientific basis and in
Promoting alternative therapies as a substitute for conventional medical treatments.

Resolution of the Collegiate Board (RDC) No. 204/2017 of ANVISA expressly prohibits
advertising for prescription drugs, including advertising carried out by
digital influencers.

Psychological damage manifests itself primarily in the effects of aesthetic pressure, promoted by

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fashion and beauty influencers, in inducing compulsive consumer behaviors, in
spreading unrealistic lifestyle standards that foster anxiety and depression, and in
Development of eating disorders related to intense social comparison.
Peck (2021) highlights that the psychological impact of social media is recognized by psychology.
modernity as a risk factor for the development of mental disorders, especially among
teenagers and young adults.
It is therefore clear that a category requiring special attention is that of harm caused to children and
adolescents. To that end, Resolution No. 163/2014 of the National Council for the Rights of Children and
The National Council for the Rights of Children and Adolescents (CONANDA) prohibits advertising aimed at children that exploits their rights.
psychological immaturity of the child.
Therefore, influencers who produce content aimed at children and young people and broadcast it
Disguised advertising is subject to aggravated liability, with the possibility of...
application of the sanctions foreseen in the Statute of Children and Adolescents (ECA), that is, in Law No. 8.069/1990.

Therefore, the typology of damages caused by digital influencers encompasses losses
material, moral, and health damages resulting from the senseless promotion of products, services, or even...
of behaviors. Common damages include financial scams, defective products and
Eating disorders, which generate anxiety through the spread of misinformation.
total on topics shared by influencers.

4.7 The Brazilian Civil Rights Framework for the Internet, the LGPD (Brazilian General Data Protection Law), and the Need for Regulation

The Brazilian Internet Bill of Rights, through Law No. 12.965/2014, establishes principles, guarantees, and rights.
and duties regarding internet use in Brazil. Article 19 addresses the responsibilities of
Application providers liable for damages arising from content generated by third parties, making it conditional upon
due to the lack of action taken after judicial notification for the removal of the content.
However, it is important to emphasize that this provision does not eliminate the direct responsibility of the individual.
A digital influencer is defined by the content they produce and publish, without considering the consequences that...
may arise.
The General Data Protection Law (LGPD), Law No. 13.709/2018, is equally relevant.
for the activities of influencers, especially with regard to data collection and processing.
Personal accounts of followers for advertising purposes.
Article 42 of the LGPD (Brazilian General Data Protection Law) stipulates that the controller or operator who, by reason of carrying out an activity...
processing personal data, causing patrimonial, moral, individual or collective damage to others,

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In violation of personal data protection legislation, the company is therefore obliged to rectify the situation.

The lack of specific legislation for digital influencers is one of the main problems.
identified. Rodrigue et al. (2025) argue that, while in other countries, such as the United Kingdom
In the United States, influencers are already subject to specific regulations issued by...
In Brazil, regulation is still carried out by the respective regulatory bodies (FCA and FTC, respectively).
fragmented and insufficient.

In the legislative sphere, Bill No. 2,630/2020 (Law) is currently being processed in the Chamber of Deputies.
Brazilian Law of Freedom, Responsibility and Transparency on the Internet), which provides for obligations of
Transparency for digital platforms. However, the project does not specifically address...
individual responsibility of influencers, which highlights the need for legislation.
complementary.

Gontijo and Pereira (2025) conclude that the regulation of the activity of digital influencers
In Brazil, this is a very urgent need, and at a minimum, it should be considered mandatory.
Clear identification of advertising content, prohibition of advertising products without evaluation.
prior notice, joint liability with advertisers, and a total ban on advertising.
targeted at vulnerable people.

However, Law No. 15,325, of January 6, 2026, was recently published, which inaugurates a
A new paradigm emerges by recognizing the role of the digital influencer as a professional activity.
linked to the multimedia field. Legal recognition is not merely a formality, but
It also implies probabilities of conduct, ethical duties, and legal responsibilities.
proportional to the impact of the content produced.

In practice, the digital influencer is therefore no longer seen solely as an ordinary user.
from digital platforms and comes to occupy a distinct legal position, especially when acting as
On a recurring basis, for remuneration, or for commercial purposes.

Law No. 15.325/26, which is quite recent, represents a major and essential step forward in the face of...
The digital reality in Brazil. By recognizing the digital influencer as a multimedia professional,
The legislator signals that freedom of expression should not be confused with the absence of
legal responsibility.

However, the great challenge now will be to balance creativity, innovation and the protection of
individuals in society, especially when children and adolescents are involved in this.
context. Furthermore, digital information has ceased to be impartial — and the law continues, even though
Belatedly, this great transformation occurred in society as a whole.

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FINAL CONSIDERATIONS

This study demonstrated that digital influencers play an increasingly important role.
relevance in contemporary society, capable of directly impacting decisions and...
The behaviors of millions of people. It was found that freedom of expression, although
Fundamental in the Brazilian legal system, it is not absolute and must be limited when its
exercise causing harm to third parties.

It is concluded that the Brazilian legal system, notably through the Civil Code and the
The Consumer Protection Code allows for the civil liability of digital influencers.
for the harm caused to their followers. The possibility of framing these agents as
suppliers by equivalence, coupled with the recognition of joint and several liability throughout the
The supply chain constitutes an important mechanism for protecting consumers.
The case law of the Superior Court of Justice (STJ) and state courts already recognizes the applicability of the rules of
Civil liability in the digital environment, although still lacking greater systematization,
especially regarding the activity of influencers. The understanding of the Supreme Federal Court regarding the non-
The absolute nature of freedom of expression, in turn, provides the necessary constitutional basis.
to justify the limitations imposed on this action.
However, the absence of specific regulations still represents a significant challenge.
which makes it necessary to create rules that establish clear duties of transparency,
Information and responsibility for digital influencers. The approval of legislation.
specifically, in dialogue with the principles already established by the CDC, the Marco Civil da Internet and
According to the LGPD (Brazilian General Data Protection Law), this is a measure that must be taken urgently.

In our national legal system, there is a recent law, dated January 6, 2026, which passed
to be the legal framework for the profession of digital influencer, strengthening the duties, the
responsibilities and legal limits regarding the impact on society resulting from the production of
online content.

It should be noted that this new legal framework demonstrates that protection in the digital environment is not a duty.
only from the State. Thus, influencers, platforms, advertisers, and legal representatives pass
to form a network of shared responsibility, especially when the impacted public is
considered weaker.

Finally, it is important to highlight the awareness of the influencers themselves regarding...
social and legal responsibility of its actions, as well as the educational role that Law can play.
to play a role in this process, by affirming standards of conduct compatible with the
constitutional values of human dignity, good faith, and the protection of vulnerable people.

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