

Original Paper

Research Report on Legal Risks in the Promotion of "Amateur Influencers"

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Abstract

With the advancement of internet technology and the transformation of consumption patterns in the new era, the influencer economy, as a new internet business format, has achieved rapid development in China, bringing huge market dividends. However, the market access threshold is low. For example, amateurs can become influencers and start making profits by recommending good products on internet platforms, and such promotion behavior has a significant impact on the market. However, the "amateur influencer" economy in a profit-making state has problems such as false product promotion, excessive marketing, inadequate control over product quality, and imperfect after-sales service, involving legal risks such as infringement of intellectual property rights, violation of consumers' legitimate rights and interests, information asymmetry, and improper supervision. Therefore, to avoid the above legal risks, the following corresponding solutions should be taken: integration of intellectual property evidence collection, supervision and enforcement, strengthening supervision and improving access thresholds, high-quality spot checks and inspections, and formulating laws for live broadcast supervision. This is of great significance for promoting the healthy development of the influencer economy in accordance with the law, improving the professional quality of influencers, and safeguarding consumer rights and interests.

Keywords

amateur influencers, promotion behavior, legal risks, solution paths

1. Introduction

Through research and analysis, it is found that various amateurs (college students, housewives, and other ordinary people) on online platforms drive consumers to purchase goods by sharing and recommending good products. However, in reality, some of these are advertising business cooperations, and even operational behaviors of signed companies, packaged as amateur images to attract traffic. "Amateur influencers" and their audiences are initially in a position of "mutual trust", which will cause a series of

adverse effects to a great extent. From a legal perspective, the promotion behavior of "amateur influencers" may generate legal risks such as infringement of intellectual property rights, excessive marketing, information asymmetry seriously disrupting market order, and improper supervision of live e-commerce development. Therefore, the following will focus on studying the legal risks and countermeasures in the promotion of "amateur influencers" through research.

2. Analysis of Research Results on Legal Risks in the Promotion of "Amateur Influencers"

2.1 Research Purpose

In order to better study whether there are legal risks in the promotion of "amateur influencers" and what kind of legal risks may exist, this research is carried out. Based on the statistics of research data, the specific legal risks existing in the promotion of "amateur influencers" are analyzed, and corresponding legal suggestions are put forward for these legal risks.

2.2 Research Design

The research objects of this survey are mainly groups aged 18 to 50, including college students, white-collar workers, and workers. Among them, males account for 41.67%, and females account for 58.33%. The survey adopts a questionnaire survey method, and conducts an online questionnaire survey for social media users according to the research theme. The questionnaire questions adopt the multiple-choice question form, and the questionnaire content mainly includes: the ability to distinguish hidden advertisements of influencers, the trust choice between "amateur influencers" and traffic influencers signed with companies, the choice of how to purchase goods, the influence of "amateur influencers" promotion on personal shopping willingness, the legal risks existing in the promotion of "amateur influencers" and their solutions, etc.

This research first uses the questionnaire survey method to release the questionnaire in an anonymous form. Secondly, use group discussions to discuss relevant issues. Finally, use statistical analysis to analyze the legal risks and solutions existing in the promotion of "amateur influencers".

2.3 Research Results and Analysis

2.3.1 Consumers' Purchase of Goods Is Influenced by Platform Bloggers' Promotion

With the rapid development of new media, 38.33% of people choose to purchase goods by browsing platform bloggers' promotion. It can be seen that influencer bloggers' promotion has had a certain impact on most people's purchase of goods.

2.3.2 "Amateur Influencers" Are More Trusted by Consumers

Compared with traffic influencers signed with companies, 86.67% of people prefer "amateur influencers" with similar consumption levels. Relying on their kindness, "amateur influencers" have rapidly risen and occupied an important position in the influencer promotion track. Their promotion of various products is a guide for consumers to purchase goods.

2.3.3 Consumers Cannot Identify Hidden Advertisements

93.33% of people believe that they have the ability to identify the hidden advertisements of internet

celebrity bloggers. However, in fact, when a product is recommended by a large number of internet celebrities, 75% of people think that it will affect their purchase of better similar products, and 51.67% of people will be "planted" to buy the product. It can be found that although most people think that they can distinguish the existence of hidden advertisements, when a product is widely promoted, it has been infiltrated into the good product promotion of various bloggers as an advertisement. In fact, it has been a hidden promotion of the product, and most people will fall into the trap of hidden promotion products and prefer to buy the promoted products.

2.4 Conclusion

The results of this survey show that with the rapid development of social media, the promotion of "amateur influencers" can affect consumers' choice of which products to buy, consumers cannot really identify the existence of hidden advertisements, and there is information asymmetry between businesses, "amateur influencers" and consumers. In fact, under the influence of various factors such as personal interests, the promotion behavior of "amateur influencers" is no longer pure good product recommendation, and there are quite a lot of legal risks. For example, infringement of intellectual property rights, excessive marketing, information asymmetry seriously disrupting market order, and improper supervision of live e-commerce development. At the same time, the law is not perfect in the restriction of "amateur influencers". When consumers are damaged by the influence of "amateur influencers", they cannot protect their own rights and interests. Therefore, it is particularly important to put forward the avoidance path of legal risks in the promotion of "amateur influencers".

In short, the promotion of "amateur influencers" has become the mainstream trend, but in order to avoid the legal risks, it is extremely important to promote the healthy development of the influencer economy in accordance with the law, and clarify the influence of "amateur influencers" promotion, its legal risks and the avoidance paths of legal risks.

3. The Influence and Legal Risks of "Amateur Influencers" Promotion

3.1 The Influence of "Amateur Influencers" Promotion

According to the China Internet Development Report (2023), the Internet in China is developing at a high speed, and the number of Internet users has reached 1.067 billion. Influencers, as products of the times, have emerged as the times require. "Amateur influencers" have innate advantages. With their own positioning, affinity and familiarity with fans, they can accurately influence fans' consumption decisions. For consumers, consumption of influencer products is quite different from consumption in the traditional economy, which makes the study of the impact of "amateur influencers" promotion behavior more of practical significance.

The influence of "amateur influencers" is reflected in their social media platforms. They interact and communicate with fans by publishing photos, videos, articles, etc., so that consumers can better understand brands and products, thereby increasing consumers' trust and awareness of products. In this case, consumers are more easily persuaded to buy the products they recommend. To sum up, the

promotion of "amateur influencers" has an important influence on consumers' purchase decisions. Therefore, brands and businesses will cooperate with them to increase sales, and can also use their influence to promote their own products and services.

The common promotion method of "amateur influencers" is to integrate into other media content to cover up their "advertising" identity, with a vague form, and the essence of soft persuasion to the audience by hiding the interest relationship (He Yihong, 2022). For example, on the Xiaohongshu platform, hidden advertisements are often hidden in the ordinary sharing content published by internet celebrity bloggers. Fans cannot know which products are the truly recommended good products, nor can they distinguish whether the recommended products are intentionally beautified.

Some scholars believe that one of the future trends of "influencer marketing" under social media is the shift from "attention economy" to "emotional economy" (Zhu Jie, 2021), and the bridge between influencers and users is built by emotion. In the marketing process, "amateur influencers" use words such as "!", "really", and "I" to form an emotional resonance with the audience, digestion the user's vigilance against advertisements, and then build a close relationship and cultivate emotions with users in the community atmosphere, so as to form advertising promotion. The "amateur influencers" mix the hidden advertisements of product promotion with the normal interaction and chat in the community, which greatly improves the promotion effect and communication effect, and thus arouses the consumption behavior of users. Because "amateur influencers" confuse their promotion behavior with emotional expression and have a lot of subjective expressions, it is not easy to implement relevant behavior norms. Under the action of fuzziness and subjective emotion, the hidden advertisements of "amateur influencers" make a large number of illegal acts mixed in and difficult to be found, false advertisements breed in large numbers, and malicious competition emerges in an endless stream. In addition, the false "good product sharing" of "amateur influencers" has formed a fixed gray industrial chain, and a large number of "professional teams" can directly undertake likes, comments, reposts, trending searches and other behaviors, and the price is very cheap. These behaviors are not conducive to consumers to buy good products, and disrupt the normal competition order for the market. If this continues, it will enter a vicious cycle of competition.

4. Legal Risks Brought by "Amateur Influencers" Promotion

4.1 "Amateur Influencers" Infringe Intellectual Property Rights in Promotion

4.1.1 "Amateur Influencers" Use Others' Brands or Trademarks Without Authorization

In recent years, there have been numerous "rollover" phenomena in the promotion of "amateur influencers". If they use unauthorized brands or trademarks in the promotion process, this may also constitute illegal behavior. Some "amateur influencers" even deliberately confuse brand names, counterfeit registered trademarks, and maliciously register, but they may also recommend counterfeit trademark products without knowing it. According to the relevant provisions of the Advertising Law, if internet celebrities know that the products they endorse are counterfeit trademark products, they need to

bear corresponding joint and several liabilities. If internet celebrities do not know, it is also necessary to consider whether they have fully fulfilled their duty of care and review.

4.1.2 Other Operators Maliciously Use the Names and Logos of "Amateur Influencers"

Many operators use logos with well-known internet celebrity marks or even directly use names to mark products, and use their fame to obtain the trust of uninformed customers to earn higher profits. In the promotion process, businesses are easy to maliciously use or maliciously register the names of well-known internet celebrities as trademarks due to dividends, which is very common in the self-media industry. According to analysis, the number of cases of malicious registration of celebrity names in China is gradually increasing (Xiao Yue, 2016), including not only "amateur influencers" but also public figures with a certain social influence. Some people use the popularity of others to register their names or specific logos as trademarks to seek profits, which is considered to be out of subjective malice.

4.2 "Amateur Influencers" Infringe Consumers' Legitimate Rights and Interests in Promotion

4.2.1 Excessive Exaggerated Words Caused by Promotion Behavior

The popularity of Li Jiaqi's "buy it" proves that exaggerated words are an important way to attract audiences. However, under the competition, there are excessive exaggerated promotion phenomena that do not conform to the reality, and even moral kidnapping consumers with family and country feelings. Exaggerated words such as "warmly recommended by major stars", "first in sales", "use it if you are Chinese", and "platform ace products" greatly affect consumers' shopping. Many consumers spend very little time in the process of "planting grass - pulling grass", and after impulsive consumption, they find that it is not suitable for them, and then "chop hands". According to the Regulations on the Governance of Network Information Content Ecology, network information content producers should abide by laws and regulations, and prevent and resist the production, reproduction, and release of bad information such as "using exaggerated headlines, and the content is seriously inconsistent with the headlines". This regulation aims to standardize network information content and prevent false, exaggerated and other bad information from misleading or harming the public. Therefore, if it is used for commercial propaganda or network information dissemination, excessive exaggerated words may constitute illegality. To a certain extent, it may infringe consumers' right to know, right to fair trade, right to independent choice, etc.

4.2.2 Random "Planting Grass" Behavior Caused by Promotion Behavior

As a new social phenomenon, "planting grass" provides convenience in breaking the professional information barrier and improving consumers' decision-making efficiency. However, with the increasing popularity of planting grass, industry chaos has gradually emerged (Su Muhui, 2019). More and more "amateur influencers" wantonly praise for dividends, recommend inferior or even unbranded products, forget their original intentions and become unscrupulous internet celebrities, and falsely plant grass. Many recommended practical products have great safety risks. Smearing products contain excessive and illegal chemical components, and even cause great harm to the human body. The competition among internet celebrities is fierce. In order to win traffic, they secretly fight with each other, resulting in more casual product recommendations, not from the perspective of consumers, organize teams to write false

grass planting content and publish it on social platforms, and get popular by buying water army traffic and other means, finally forming a vicious circle. China's criminal law stipulates that for the purpose of making profits, providing paid services such as publishing false information or deleting information on the Internet may be suspected of the crime of illegal business operation. Data fraud harms consumers and infringes consumers' right to know, right to fair trade, right to choose, etc.

According to Article 4 of the Advertising Law, advertisements shall not contain false or misleading content, and shall not deceive or mislead consumers. At the same time, according to the first paragraph of Article 8 of the Anti-Unfair Competition Law, operators shall not make false or misleading commercial propaganda on the performance, function, quality, sales status, user evaluation, obtained honors, etc. of their goods, so as to deceive or mislead consumers. These legal provisions aim to maintain market order, protect consumer rights and interests, ensure the authenticity and accuracy of advertising information, and prevent false advertisements from misleading or harming consumers and prevent the occurrence of unfair competition behaviors. These false information not only deceive consumers but also affect the development of a healthy online shopping environment.

4.3 Information Asymmetry Between Businesses, "Amateur Influencers" and Consumers

In order to maximize profits, some enterprises may discuss with "amateur influencers" or unilaterally decide to release false information beneficial to themselves, and violate principles to maintain interests. The information asymmetry caused by this behavior has seriously disrupted the social and economic market order, and may trigger "adverse selection" and "moral hazard" (Li Mingwei & Dong Lei, 2016), which seriously weakens the operational efficiency of the market. Especially for consumers in a weak position, the consumption risks brought by information asymmetry may damage their trust in brands and the market, resulting in the unhealthy operation of the social economy and restricting the development of the market economy.

Trust is the premise for consumers to shop for "amateur influencers". When consumers think that "amateur influencers" are sincerely recommending and serving them, they *往往 (often)* show higher trust and goodwill towards the brand. On the contrary, if the audience feels deceived, they may make negative reactions (Wang Rang, Duan Qiuting, & Kelsy-Ann Adams, 2022). This information asymmetry not only leads to the cooperation considerations between brands and influencers but also leads to the trust crisis between consumers and products. For the consumer market, the dishonesty between brand cooperation and the non-publicness with consumers both seriously lead to the collapse of trust and the destruction of market order. The Anti-Unfair Competition Law stipulates that no operator shall make false or misleading commercial propaganda on the performance, function, quality, sales status, user evaluation, obtained honors, etc. of its goods or services, so as to deceive and mislead consumers. This behavior is regarded as unfair competition and is subject to corresponding legal liabilities. It infringes consumers' right to know, right to safety, right to fair trade, etc.

4.4 Regulatory Risks in the Promotion of "Amateur Influencers"

4.4.1 Regulatory Problems Caused by Competition Between Live Broadcast Platforms

Fierce competition in live-streaming e-commerce platforms has led to excessive marketing with lowered ethical standards, giving rise to numerous unfair competition practices and violations. Some platforms fail to conduct rigorous product reviews, resulting in consumers receiving low-quality goods and reduced satisfaction. Meanwhile, unclear return/refund policies and inactive enforcement make it difficult for consumers to process returns, undermining shopping experiences and trust in businesses. Regulatory risks such as illegal price promotions, rigged lotteries, data fraud, and failure to fulfill consumer protection obligations prevail among platforms. The lack of specific legal provisions against vicious competition between platforms has disrupted the healthy online environment.

4.4.2 Regulatory Issues of Live-streaming Violations by "Amateur Influencers"

To attract consumers, some live-streamers may exaggerate product functions, misleading consumers into receiving goods that do not meet expectations and generating negative reviews. Live-streaming e-commerce faces challenges such as false advertising, misleading consumption, product quality issues, and consumer rights protection. Platforms should safeguard consumer rights and promote healthy industry development. During supervision, "amateur influencers" are prone to violations like intellectual property and personality right infringement, false advertising, and unprofessional language, posing regulatory risks. Currently, laws governing live-streaming norms for "amateur influencers" are insufficiently clear and detailed, and implemented requirements are not effectively enforced.

5. Solutions to Mitigate Legal Risks in "Amateur Influencers" Promotion

5.1 Measures Against Intellectual Property Infringement in Promotion

Evidence collection remains a common challenge in online intellectual property infringement cases. To address this, investigative evidence gathering and litigation preservation measures should be prioritized. Judicial procedures must guide and encourage parties and e-commerce platforms to collect evidence lawfully. Evidences submitted by parties should be promptly preserved, with accelerated case acceptance, active investigation, and support for qualified claims. Penalties should be imposed for providing false materials or deliberately destroying evidence during investigations.

A national e-commerce intellectual property infringement reporting platform should be established to accept complaints, follow jurisdiction principles for case transfer and handling, and timely feedback results to intellectual property administrative departments for review. Additionally, regulatory methods can be optimized by leveraging technologies like cloud computing, AI, and big data platforms to alleviate review pressures.

Upon discovering intellectual property infringement, administrative law enforcement departments should act swiftly, feedback issues to complaint centers, formulate targeted solutions for different infringement types, and safeguard parties' legitimate rights. Law enforcement departments should also collaborate closely with platforms to combat intellectual property infringement.

5.2 Measures to Protect Consumer Rights in Promotion

While real-name authentication and personal information verification for individual e-commerce have improved, they are not effectively integrated into daily supervision. Laws should thus be refined to use this as a breakthrough for consumer rights protection. For severe quality issues and consumer rights violations caused by "amateur influencers' " excessive marketing, individuals should be punished through the online real-name system, such as fines, reduced bank credit ratings, or even criminal liability for serious cases.

The threshold for entering e-commerce on online shopping platforms is extremely low. "Amateur influencers" can open stores by merely undergoing real-name authentication and paying a ¥1,000 deposit, leading to chaotic store operations and products that do not match their true value. Therefore, redesigning store application processes to raise access thresholds is the first step to control product quality. After real-name authentication, applicants must clarify business directions and brand descriptions, apply for product-specific sales qualifications, and pay deposits based on product types. For stores selling multiple product categories, separate qualifications and cumulative deposits are required, increasing the cost of arbitrary product sales, ensuring accountability for marketed goods, and effectively raising e-commerce entry barriers to reduce consumer rights violations.

5.3 Measures Against Market Order Disruption by Businesses and "Amateur Influencers"

According to information economics, narrowing the information gap between producers and consumers to balance information can resolve information asymmetry (Yang Changrong, 2019). This prevents businesses from exploiting information advantages, consolidates the foundation of mutual benefit, and promotes positive market order.

Current daily supervision systems for shopping websites involve random inspections by the website followed by third-party quality testing. However, this system has flaws, such as low sampling frequency, significant errors, and potential interest conflicts among entities, making it difficult for consumers to access true product information. Thus, the sampling system needs reform: first, shopping websites should outsource inspections to third-party professional institutions, which use scientific big data analysis to determine sampling targets and content. Additionally, websites should collaborate with consumers, randomly selecting participants to decide inspection targets and products. Platforms can also implement consumer supervision through a credit evaluation system, designating "golden buyers" based on user credit scores and using their evaluations of "amateur influencers' " products as key factors for sampling, enabling consumers to participate in obtaining real product information and reversing businesses' information dominance.

5.4 Measures to Address Regulatory Issues in "Amateur Influencers" Promotion

To comprehensively regulate online live-streaming marketing, existing legislative resources should be integrated to promulgate the Law on Network Live-streaming Marketing. This law should be formulated based on China's live-streaming marketing industry background, characteristics, development trends, and legislative status, building on relevant laws like the E-commerce Law and Advertising Law. When

drafting special legislation, coordination among laws must be considered, with clear definitions of regulatory departments' responsibilities and integration of live-streaming marketing supervision into a legal framework.

"Amateur influencers" reap substantial profits through live-streaming sales. Driven by interests, many streamers violate laws knowingly, engaging in counterfeiting, online brushing, data forgery, and illegal live-streaming content. Despite intensified supervision, some streamers take risks due to perceived low violation costs. Therefore, establishing an "influencer blacklist" supplements existing penalties, imposing different-term career restrictions based on the severity of violations, strengthening punishment, and standardizing streamers' behavior. Regulatory authorities should enhance cooperation: led by the State Administration for Market Regulation, a national unified "influencer blacklist" information disclosure platform should be established with relevant departments to share information. Live-streaming platforms must query this platform during streamer registration to verify blacklist status.

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