

Influencer Marketing

A Practical Guidance® Practice Note by Preston Coughlin, Polsinelli PC



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This document describes legal issues counsel should consider when evaluating influencer marketing matters. The practice note discusses both regulatory compliance and transactional considerations. Influencer marketing is now a significant part of social media advertising. Influencer marketing has become very common, and brands across a wide variety of industries now rely on influencer marketing.

Regulatory Compliance in influencer marketing involves Section 5 of the Federal Trade Commission (FTC) Act, and the practice note discusses applicability of the Act, as well as FTC guidance. The practice note then discusses a variety of contract and negotiation considerations pertaining to influencers, such as exclusivity and approval. It also discusses influencer-specific considerations for typical contract clauses such as indemnification, limitation of liability, and termination.

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Preston is a business and commercial contracts attorney who advises companies in their day-to-day legal needs and business transactions. Preston has significant experience in structuring and negotiating a variety of complex transactions, including commercial contracts, venture formation, financings and acquisitions.

Preston's recent experience includes representing an NFL team in over 300 commercial contracts, a large hospital system in over \$50 million of technology licenses, and two major professional sports leagues in large stadium licenses, arena licenses and convention center agreements.

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