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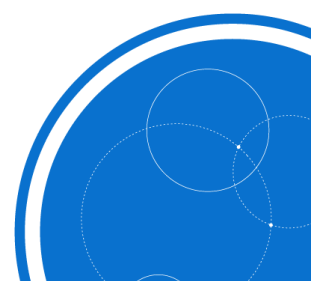


Guidelines for publishing advertisements on social media

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How to advertise on social media without getting into trouble?

In Estonia, advertising is regulated by multiple laws which must be read and followed even when advertising on social media because breaking these laws can result in unpleasant surprises. To avoid such unexpected situations, the Estonian Marketing Association along with the Consumer Protection and Technical Regulatory Authority has prepared this guide that should help social media influencers to follow the valid laws.

What is social media?

Social media is various websites and applications (e.g. Facebook, Instagram, YouTube, blogs, Twitter, TikTok, etc.) that allow people to create and mediate different content or partake in social interaction with other people.

From the perspective of the Advertising Act, social media is not different from other media, meaning each advertisement published on social media must meet the requirements of the Advertising Act.

Who is a social media influencer?

Influencers are persons who create or mediate content on social media, whose posts are followed by the public. It is not important whether 10, 100, 1000 or a million people follow your post or whether your posts are available to everyone or only your followers.

What is an advertisement?

According to the Advertising Act, an advertisement is information that is published with the aim of increasing the sales of a product or a service, to promote an event, or to direct a person's behaviour in the public interest.

The advertiser may be paid for publishing an advertisement or not, thus, the advertisement must meet the rules of the Advertising Act even if the advertiser is not paid for it. Even if you participate in a seemingly well-meaning initiative, e.g. a social campaign, it must meet the requirements of the Advertising Act - for example, it may not intimidate people or defame anyone.

When is a social media post an advertisement and when is it not?

An advertisement is a post made by an influencer that introduces or presents a product, brand, service or event mentioned in the post with the aim of increasing its popularity and thus also its sales. Introduction or presentation means the person posting directing (usually based on the received

order) the onlooker's/reader's/listener's attention to the product (brand, service, etc.) either by speaking or writing about it, or by showing it, whereas by showing, it is also meant positioning it in the picture frame in an outstanding manner.

At the same time, exhibiting a product is not necessarily always advertising in the meaning of the Advertising Act. For example, if the person posting wears the footwear or clothes of a certain brand which they like, which they have personally purchased and the sales of which they are in no way promoting, then this cannot be deemed advertising even if preferring certain brands may influence the purchase decisions of their fans.

Also, review or introduction of a new film, theatrical play, book, computer game, restaurant, etc. which the person posting has published based on their own interest in the given subject cannot be considered an advertisement.

Therefore, we need to adhere to the aspect of whether the post concerning a product, brand, service, event, person, etc. is in the interest of a specific merchant and is directed at increasing the sales of a product or service. The person posting can advertise for free or receive a **fee** from the person who orders. Here, the fee does not necessarily have to be money, because a fee for advertising can also be **other perks**, such as a gift card, a product/service received as a gift or some other discount.

As mentioned earlier, information shared for **free** can also be qualified as advertising if its aim is the targeted popularisation of the product, service, event, person or idea to extend its spread. Thus, when you share the principles of an organisation or a group on social media regularly and in a manner that exceeds simply expressing your opinion, then it could be considered advertising to which requirements from the Advertising Act apply.

Advertising and content

Why is it important that we distinguish advertising from other content in a social media post? Firstly, of course, so the reader, viewer or listener of the post has a clear understanding of which content is created based solely on the author's own will and wish and which post is made based on the request of the person ordering the advertising. And secondly because according to the requirements of the Advertising Act, **all advertising must be clearly separated from other content**. The reason is still the same: so I am able to understand whether you really like this hotel or if you are only praising it to get free weekend accommodation out of it.

How to mark advertising

Advertisement posts on social media must be marked clearly from the beginning so that the followers understand immediately when reading/viewing/listening that this is an advertisement.

To mark an advertisement, the **#reklaam** hashtag is appropriate. The hashtag should be used at the beginning or in the title of the post published in any social media platform (blog, Instagram, Facebook, Twitter, etc.). If the post does not have a defined text section (such as in an Instagram Story or in TikTok), the mark indicating advertisement must be reasonably visible for the person consuming the visual of the post.

If your followers are mainly located in Estonia, we recommend making the marking in Estonian as well, regardless of the language of the post. In other languages, we recommend marking the advertising posts with hashtags in the respective languages, e.g. **#advertisement** in English or **#реклама** in Russian.

Additionally, the advertisement must clearly include the name of the person ordering the advertisement (e.g. their Estonian or European Economic Community's brand or domain name that is registered or will be registered). The name of the person ordering the advertisement must be added after the hashtag at the beginning of the post, e.g. **"#reklaam @rahva.raamat"**.

You can also use the existing options of the platform for marking (e.g. the Paid Partnership tag of Instagram) or write the nature of the advertisement content as a full sentence on the first text row of the post (in a blog post, for example). In the case of audio-visual media (e.g. YouTube video or podcasts), you must indicate in audio and/or video **within the first minute** (for example, by text in the video) that the video includes advertisements, products gifted by brands or product placement. Additional information on the advertised content (e.g. which brand ordered the advertisement) may be added into the video description.

Gifted products

Since products received from brands serve the wider aim of advertising, the **#reklaam** hashtag should also be used for posts for which no money but other perks, such as gifts, have been received. If you would like, you can add supplemental information to the **#reklaam** hashtag such as "gifted product" to clearly mark the nature of the advertised content, adding the respective brand name. **#reklaam product gifted by #Nike**.

Product placement

In a longer audio-visual show or piece (e.g. a YouTube video), the person posting may adhere to the product placement rules provided in the Media Services Act. Product placement refers to a format of advertising where the product or service is included in the show for a fee or other perk on the condition that it is exhibited according to the rules provided in the Media Services Act. According to the latter, you may not directly advertise the included products, i.e. make specific references that could promote the sales of the products or draw attention directly to the products. For example, you

can set a Farmi brand milk carton on the table in your YouTube video and receive perks from the brand, but in your piece you cannot refer to the product, praise it or talk about where to get it.

If you use product placement in your audio-visual piece, then before the video/show begins as well as at the end of the video you need to use the following wording: **“The show (video) includes product placement (placements)”**. If your video/show has commercials, the marking must also be displayed at the beginning and end of each commercial break.

Sponsorships

In the Media Services Act, sponsorship is described as an opportunity to finance an audio-visual show, video, podcast, etc. by a legal or physical person with the aim of promoting their reputation or introducing their name, brand, activities or products. Differently from ordering an advertisement, a sponsor supports the content creator over a longer period without interfering in the content creation. Sponsorship is usually referred to by indicating their brand, product or name at the start and end of the show along with a respective reference to sponsoring (This show is sponsored by...). Restrictions and prohibitions related with sponsoring are provided in the Media Services Act.

What may not be advertised?

Advertising the products or services of certain domains on social media is restricted or prohibited. Advertising services or products in the following categories on social media is prohibited: alcohol; tobacco products and products intended for the consumption of tobacco products; products used similarly to tobacco products or parts thereof; trustees in bankruptcy, notaries and bailiffs; narcotic and psychotropic substances; weapons and ammunition; explosives and pyrotechnics; health services (see section 22 of the Advertising Act for more detail); infant milk formula; creations with pornographic content, violence and cruelty; and services provided for satisfying sexual urges.

A warning must be added to advertisements related to gambling and medicinal products. Advertisement of financial services must include a call to read the conditions of the financial service and to consult a specialist, if needed. Requirements for advertising medicinal products are provided in the Medicinal Products Act. These warnings must be added at the beginning of the post, following the hashtag #reklaam.

According to the valid legislation, in addition to the aforementioned, restrictions also apply to advertising pesticides, biocides, financial services, and services provided by lawyers, sworn translators and patent attorneys.

In general, it would be wise for all influencers to pick up the Advertising Act and see which general requirements apply to the advertising content and which prohibitions, restrictions and requirements

are written in the law, incl. for example about comparative advertising (available [HERE](#)) or advertising targeted at children (available [HERE](#)). Even if the advertising of the products presented by you is permitted, when advertising, you should still consider the requirements of the Advertising Act and the age of your followers and how the product/service suits them.

Who is responsible for marking the advertising?

The **publisher** of the advertisement (the person posting, the influencer), the **body executing the advertisement** (advertising agency) and the **person ordering the advertisement** (the client, the merchant in whose interest the products are advertised) are equally responsible for following the Advertising Act requirements, incl. marking the advertising to separate it from other information and for adding warnings.

Parents or legal guardians are responsible for the activities of underage influencers.

If you have any questions about understanding the provisions of the Advertising Act, contact the Consumer Protection and Technical Regulatory Authority [e-mail: info@ttja.ee].