

Tips on How to Shape Up Your Influencer Advertising Program: The NAD Reviews Skims' Instagram Posts for Proper Disclosures

April 4, 2025 – The TMCA

by Fara Sunderji

For years now we've been blogging about how much the [FTC](#) and even the [SEC](#) on occasion love scrolling Instagram posts to see what influencer are up to. This post is about another three letter organization who likes to scroll to confirm advertiser and influencer compliance with the FTC's now very well-known [Endorsement Guides](#). If You Don't Know Now You Know - The National Advertising Division or the NAD was founded in 1971 as an independent self-regulatory, non-profit organization, whose mission it is to ensure advertng claims are truthful and accurate. The NAD is part of the BBB National Programs, an independent non-profit organization that oversees more than a dozen national industry self-regulation programs. Advertisers can bring challenges against one another and the NAD also initiates its own challenges. Participation is voluntary (this is not a court of law) and there is no possibility for fines or damages, but the NAD is friends with the FTC and refers cases on occasion.

With that introduction out of the way, we are here to update you on a [recent case filed by the NAD itself against Skims](#), the underwear, lounge wear and shapewear brand. While this blog probably won't make you look slimmer, this post might just give your brand's influencer advertising a clearer and more conspicuous look . Like many brands, Skims hires celebrities to promote the brand on social media. The case focused on whether social media posts by Lana Del Ray and Brittany Mahomes adequately disclosed the financial relationship between the influencers and the brand.

At the outset, the NAD noted that:

The FTC's Endorsement Guides state that when there exists a connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement, and that connection is not reasonably expected by the audience, such connection must be disclosed clearly and conspicuously.

With that in mind, the NAD reviewed Instagram posts by Lana Del Ray that show her wearing Skims products, which either mentioned the brand by name or tag @skims in

Related People

- Fara Sunderji

Related Capabilities

- Trademark, Copyright + Advertising
- Intellectual Property Litigation

the caption of the post. The Brittany Mahomes's posts feature her and her family wearing Skims products, but no specific mention of the brand in the caption of the post and while she tagged the brand in the picture, she did not tag @skimms in the caption.

The NAD found that neither influencer had complied with the FTC Endorsement Guides. In reference to Lana Del Ray's posts with the tag, the NAD stressed that:

The FTC has further made it clear that tagging a brand you are wearing in a social media post is an endorsement of the brand. However, tagging a brand does not constitute a sufficient material connection disclosure, as an influencer could be tagging a brand simply because they like it and want their followers to be able to find it. The FTC makes it clear that just like any other endorsement, a social media post tagging a brand may require a material connection disclosure if the influencer has a relationship with that brand.

nadialeecohen



