
STUDIA IURIS

JOGTUDOMÁNYI TANULMÁNYOK / JOURNAL OF LEGAL STUDIES

2025. II. ÉVFOLYAM 2. SZÁM



Károli Gáspár Református Egyetem
Állam- és Jogtudományi Doktori Iskola

A folyóirat a Károli Gáspár Református Egyetem Állam- és Jogtudományi Doktori Iskolájának a közleménye. A szerkesztőség célja, hogy fiatal kutatók számára színvonalas tanulmányaik megjelentetése céljából méltó fórumot biztosítson.

A folyóirat közlésre befogad tanulmányokat hazai és külföldi szerzőktől – magyar, angol és német nyelven. A tudományos tanulmányok mellett kritikus, önálló véleményeket is tartalmazó könyvismertetések és beszámolók is helyet kapnak a lapban.

A beérkezett tanulmányokat két bíráló lektorálja szakmailag. Az idegen nyelvű tanulmányokat anyanyelvi lektor is javítja, nyelvtani és stilisztikai szempontból.

A folyóirat online verziója szabadon letölthető (open access).

ALAPÍTÓ TAGOK

BODZÁSI BALÁZS, JAKAB ÉVA, TÓTH J. ZOLTÁN, TRÓCSÁNYI LÁSZLÓ

FŐSZERKESZTŐ

JAKAB ÉVA ÉS BODZÁSI BALÁZS

OLVASÓSZERKESZTŐ

GIOVANNINI MÁTÉ

SZERKESZTŐBIZOTTSÁG TAGJAI

BOÓC ÁDÁM (KRE), FINKENAUER, THOMAS (TÜBINGEN), GAGLIARDI, LORENZO (MILANO),
JAKAB ANDRÁS DSc (SALZBURG), SZABÓ MARCEL (PPKE), MARTENS, SEBASTIAN (PASSAU),
THÜR, GERHARD (AKADÉMIKUS, BÉCS), PAPP TEKLA (NKE), TÓTH J. ZOLTÁN (KRE),
VERESS EMŐD DSc (KOLOZSVÁR)

Kiadó: Károli Gáspár Református Egyetem Állam- és Jogtudományi Doktori Iskola

Székhely: 1042 Budapest, Viola utca 2-4

Felelős Kiadó: TÓTH J. ZOLTÁN

A tipográfia és a nyomdai előkészítés: CSERNÁK KRISZTINA (L'Harmattan) munkája

Nyomdai kivitelezés: Prime Rate Zrt., felelős vezető: TOMCSÁNYI PÉTER

Honlap: <https://ajk.kre.hu/index.php/jdi-kezdolap.html>

E-mail: doktori.ajk@kre.hu

ISSN 3057-9058 (Print)

ISSN 3057-9392 (Online)

URL: KRE ÁJK - Studia Iuris

<https://ajk.kre.hu/index.php/kiadvanyok/studia-iuris.html>

RESPONSIBILITY OF INFLUENCERS FOR THE INFORMATION THEY PROVIDE TO CONSUMERS

INFLUENZSZEK FELELŐSSÉGE A FOGYASZTÓKNAK NYÚJTOTT TÁJÉKOZTATÁSÉRT

KATALIN TEGZA BADACSONYI¹

ABSZTRAKT ■ Az internet és az online platformok elérhetőbbé válásával influenszerek felhasználása a reklámozás során rendkívül elterjedté vált. Azonban felelősségük alapja – a fogyasztóvédelmi jog köz- és magánjogi aspektusai kettősségére tekintettel – a jogrendszerben nem került pontos elhelyezésre. Tanulmányom az influenszer, a vállalkozás és a fogyasztók között fennálló hárompólusú viszonyhelyzetre összpontosít, valamint a felelősségi alakzatokra, melyek ebből a különleges jogi helyzetből fakadnak. Az influenszerrel szerződő vállalkozást, valamint a fogyasztókat határozom meg, akik irányában az influenszer felelősséggel tartozik, felvázolom a vonatkozó felelősségi alakzatok lényegi elemeit, valamint meghatározom a felelősségi alakzatok helyét a jogrendszerünkben.

KULCSSZAVAK: felelősség, influenszer, fogyasztók tájékoztatása, tájékoztatáshoz való jog, hárompólusú viszonyhelyzet

ABSTRACT ■ With the rise of accessibility to the internet and online platforms, using the services of influencers in advertising became extremely common. However, the basis of their responsibility is not well defined in the legal system, in the light of the duality of the public and private aspects of consumer protection law. My research paper focuses on the three-polar relationship, in which the influencer is wedged between the undertaking and the consumers, and the forms of responsibilities this unique legal position establishes. The contracting undertaking and the consumers are defined, towards whom the influencer is liable through various forms of liability. The essential elements of the relevant forms of liability are outlined, and the aforementioned types of liabilities are placed in our legal system.

KEYWORDS: liability, influencer, providing information to consumers, rights to information, three-polar relationship

¹ PhD student, Doctoral School of Law and Political Sciences of the Pázmány Péter Catholic University.

1. INTRODUCTION

Using the services of influencers in advertising is a defining feature of our time. With the rise of accessibility to the internet and online platforms, examining the responsibility of influencers is a crucial task. Advertising via influencers presupposes a unique, three-polar relationship, in which the influencer is wedged between the undertaking and the consumers. Although the contractual relationship is established between the undertaking and the consumers in relation to a given product or service, advertising and reaching consumers take place through the influencer in the online space. The consumer's right to information – as a basic right of consumers – is also manifested through the influencer's activities.

With this new form of advertising, access to consumers has become much faster and smoother. Changing trends and an overload of information can reach consumers in an instant. Due to their personal qualities, influencers address consumers in a manner that is unique and characteristic. This contributes greatly to the success of advertising. Through their behaviour and character, influencers create an appearance of authenticity² and thus creates trust in their followers with regard to the advertised product or service.

Given that influencers derive financial benefits from advertising, whether in the form of financial compensation, the use of free products or services, or discounts, and that consumers obtain information through them, the question arises as to what responsibility influencers have for providing incorrect, misleading, unprofessional or inappropriate information.

Consumer protection in Hungary is not regulated in a homogenous way. Instead of having one unified piece of regulation, multiple branches of law³ regulate the different aspects of consumer protection law. A differentiation can be made between the private and public aspects of consumer protection law. That duality is clearly reflected in the topic of influencers' liability as well.

From a public law perspective, the Hungarian Competition Authority, as the main enforcer of public consumer protection law, focuses on issues of influencer liability in the context of unfair commercial practices, misleading advertising, in particular, in the framework of disclosure of advertising content.⁴ So it mainly

² SOLANGE G. STAMATOS: Get Ready with Me: Unveiling the Regulatory Realities of Influencer Marketing. *Boston College Law Review*, 2025 (1), 258–259.

³ PÉTER MISKOLCZI BODNÁR: Fogyasztóvédelmi szabályok a Ptk.-ban. *Magyar Jog*, 2018 (11), 593.

⁴ Gazdasági Versenyhivatal: #GVH#Megfeleles#Velemenyvezer, https://www.gvh.hu/data/cms1037278/aktualis_hirek_gvh_megfeleles_velemenyevezer_2017_11_20.pdf (downloaded: 25.04.2025). GVH: Tájékoztató az influencerszermarketingről, <https://gvh.hu/pdf/file?path=/>

focuses on the fact if it is clearly shown to consumers that what they are seeing is actually an advertisement, product placement, sponsored post. In this context, the aim is to ensure that consumers make informed market decisions based on genuine facts.

However, from a private law perspective, Hungarian legal literature has not yet really explored the numerous private law aspects of this issue. In my opinion, the cases of incorrect, unprofessional and inappropriate information provided by influencers should clearly be examined within the framework of private law, via analogy.

2. THE SUBJECTS OF THE LEGAL RELATIONSHIP

2.1. Influencer as a legal entity

Despite the widespread use of advertising via influencers, there is no legal definition on who counts as an influencer. The nature and specifics of the activities carried out by influencers can only be determined by circumscription.⁵

In general, influencers can be defined as persons, present on one or multiple online platforms, such as Facebook, TikTok, Instagram or YouTube, with a significant following base, to whom they publish content, using their own pages, and get some kind of remuneration from undertakings based on the published content. However, the affected group does not correspond to the notion of natural persons in the meaning of the Hungarian civil code,⁶ it not solely implies natural persons. Even a fictional character can be an influencer.⁷ And although minors do not have the same extent of capacity to act as adults,⁸ they also have the capability to act as influencers.⁹ It could be interesting as well, to examine the liability of those persons behind the kidfluencer (minor acting as an influencer) or avatars, fictional characters etc.

szakmai_felhasznaloknak/tajekoztatok/Tajekoztato_az_influenszer_marketingrol.pdf&inline=true (downloaded: 25.04.2025).

⁵ GÁBOR LÁSZLÓ DICSŐ: Foglalkozástól való eltiltás: múltja, jelene, jövője – Alkalmazása a modern online végezhető tevékenységek körében, különös tekintettel a youtuberek és streamerek világára. *Büntetőjogi Szemle*, 2025 (1), 22.

⁶ 2013. évi V. törvény a Polgári Törvénykönyvről, 2:1 § (2), 2:8. § (2).

⁷ GVH: Tájékoztató az influencersmarketingről, I.1., 6.

⁸ 2013. évi V. törvény a Polgári Törvénykönyvről, 2:11. §.

⁹ The phenomenon of kidfluencers, KATALIN BARACSI: Digitális Gyermekjogok: reklám(ozó) gyerekek. *Családi Jog*, 2023 (2), 42.

In the practice of the Hungarian Competition Authority, key concepts for being an influencer are digital environment, the exercise of influence, the ability to shape consumer opinion, the publication of online content on one's own platform, the existence of a committed follower base. The Hungarian Competition Authority also outlines the possibility that even minors can be influencers.¹⁰ These conceptual elements were later supplemented by the statement that influencers are capable of shaping consumer opinion and that they are not only natural persons, but can also be objects or even virtual entities, such as '*animals, mascots, digital characters, avatars*'.¹¹

Influencers are classified in the literature based on the size of their follower base.¹² The number of consumers reached by an influencer is relevant due to the fact, that an influencer who can reach a wider consumer base may have a greater impact on the market of the advertised product or service, therefore could be more valuable for an undertaking, who wishes to use their services for advertising purposes. Influencers with fewer than 5,000 followers are considered nano-influencers, those with more than 5,000 followers are micro-influencers, those with 100,000 followers are macro-influencers, and those with 500,000 followers are classified as mega-influencers.¹³ With a following base of over 5,000,000 followers, the influencer is considered to be a celebrity.¹⁴ In terms of the extent of liability, the size of the following base proves to be irrelevant so far.

Advertising by influencers can appear in a form of text, images, video recordings or live videos (for example such as so-called unboxing videos).¹⁵ The manner in which the advertising is carried out is irrelevant in term of advertising and the responsibility of the influencer, there is no distinction between the various media platforms through which the advertising can be carried out.

2.2. The undertaking

Defining the conceptual elements of the notion of the undertaking goes beyond the scope of this research paper, regarding the fact, that company law regulations

¹⁰ Gazdasági Versenyhivatal: #GVH#Megfeleles#Velemenyvezer, II.1.

¹¹ Gazdasági Versenyhivatal: Tájékoztató az influencersmarketingről, I.1., 6.

¹² FRUZSINA FORRAI-MOLNÁR: Influencersmarketing és fogyasztóvédelem. In: CSABA BALÁZS RIGÓ – IZABELLA SZOBOSZLAI – MARTIN MILÁN CSIRSZKI (szerk.): *A hazai fogyasztóvédelmi jog áttekintése: alapok, kihívások, aktualitások*. Budapest, Versenytükrök Könyvek, 2023, 333.

¹³ ANNA LÉKÓ: Az influencers tevékenységének jogi szabályozása. *Magyar Jog*, 2024 (3), 145–146; FORRAI-MOLNÁR 2023, 334.

¹⁴ Ibid.

¹⁵ FORRAI-MOLNÁR 2023, 334–335.

vary between EU Member States. Therefore, for the private aspects of consumer protection law, the definitions are not unified. However, for the purposes of the public aspects of consumer protection law, the definition is unified through the Unfair Commercial Practices Directive.¹⁶ What is necessary for the purposes of this research paper is that the undertaking's product or service is in the core of the legal relationship and the information provided – and therefore the liability – is linked to this product or service.

A contractual relationship is established between the undertaking and the consumers, in relation to a given product or service. The undertaking is obliged by consumer protection law to inform consumers (and potential consumers) about the essential characteristics of the product or service.

An agency contract is established between the undertaking and the influencer (which can be through a contributory PR agency, as intermediary as well¹⁷). Essentially, the influencer fulfils the undertaking's obligation to provide information to consumers.

2.3. The consumers

Consumers reached by influencers form a quite diverse group. According to the Hungarian Central Statistical Office's data, more than 91% of Hungarian households already possessed internet access in 2022, while the average in the European Union was 92%.¹⁸ In 2025, more than 94% of Hungarians use the internet, and nearly 73% of the population is present on social media.¹⁹ Therefore, it can be said that content published on social media platforms reaches all age groups, from children to the elderly. Children and the elderly have somewhat more limited access to the internet and social media than other age groups, but the differences between generations are beginning to fade.²⁰

¹⁶ Az Európai Parlament és a Tanács 2005. május 11-i 2005/29/EK irányelve [UCP irányelv], 2. cikk b).

¹⁷ GVH: Tájékoztató az influenszermarketingről, IV.

¹⁸ Központi Statisztikai Hivatal: Fenntartható Fejlődési Célok: Ellenállóképes infrastruktúra kiépítése, az inkluzív és fenntartható iparosítás támogatása és az innováció ösztönzése: Az internet-hozzáférés aránya a háztartásokban, <https://www.ksh.hu/s/kiadvanyok/fenntarthato-fejlodes-indikatorai-2023/1-10-sdg-9> (downloaded: 26.04.2025).

¹⁹ Datareportal: SIMON KEMP: Digital 2025: Hungary. 2025.03.03., <https://datareportal.com/reports/digital-2025-hungary> (downloaded: 26.04.2025).

²⁰ VIKTOR BENE – ANITA HEGEDŰS – BERTALAN PUSZTAI: Laikus szakértők, fórumok, influencerek – Az egészséggel kapcsolatos információk mediális forrásai. *ME.dok*, 2020 (2), 69.

How can we define the consumers? What are the conditions to become a consumer? Are there differences between the consumers?

The Hungarian Civil Code does not differentiate between consumers, neither based on age, neither by health conditions, it rather uses a uniform definition.²¹ However, it is worth highlighting, that in terms of contractual capacity, differences can be seen.²² Namely, minors do not have the same extent of rights as adults in terms of their capacity to enter into contracts. Transactions between consumers and undertakings requires a contractual basis and thus the ability to conclude a contract. So, basically, the condition for becoming a consumer is the ability to entering into contracts.

In a public aspect of consumer protection law, the notion of consumer differentiates based on personal criterions between consumers. Based on their age, their physical or mental infirmity, or their credulity, consumers can be considered particularly susceptible.²³ These more vulnerable group of consumers are given special protection due to their specific characteristics, due to the fact, that they are prone to making business decisions, namely undertaking expenditures that exceed their financial capacity, in order to achieve a perceived or real effect, goal or result.²⁴ Thus, their decision-making ability is strongly influenced, generally, or specifically in a certain area. In addition to (or in explanation of) these cases specified in the legislation, the Hungarian Competition Authority has also identified vulnerable consumer groups on a case-by-case basis.²⁵ In my view, health awareness and health problems are central issues for vulnerable consumer groups in many cases.

In addition to reaching the elderly and children as more sensitive consumer groups, influencers are also able to reach other special consumer groups such

²¹ 2013. évi V. törvény a Polgári Törvénykönyvről, 8:1. § (1) 3.

²² 2013. évi V. törvény a Polgári Törvénykönyvről, 2:8. § (2), 2:11. §, 2:12. § (1), 2:12 § (2) b), 2:13. §, 2:14. § (1), 2:14. § (2). LAJOS VÉKÁS – PÉTER GÁRDOS (szerk.): *Nagykommentár a Polgári Törvénykönyvről szóló 2013. évi V. törvényhez*. 2024, ISBN 978-963-594-333-3, Ptk. 2:12. §-ához, Ptk. 2:14. §-ához.

²³ 2008. évi XLVII. törvény a fogyasztókkal szembeni tisztességtelen kereskedelmi gyakorlat tilalmáról, 4. § (2).

²⁴ JÓZSEF ZAVODNYIK: *Nagykommentár a tisztességtelen kereskedelmi gyakorlatról szóló törvényhez*. Budapest, Wolters Kluwer Kft., 2013, 120.

²⁵ A Gazdasági Versenyhivatal Versenytanácsának az Fttv.-vel, Grt.-vel és a Tptv. III. fejezetével, a Gyftv.-vel és az Éltv.-vel kapcsolatos elvi jelentőségű döntései (2024), I.4.6., I.4.7., I.4.8., I.4.10., I.4.11., I.4.03, https://gvh.hu/pfile/file?path=/szakmai_felhasznaloknak/versenytanacsi_dokumentumok/vt_elvi_jelentosegu_dontesek_fttv_2024&inline=true (downloaded: 27.04.2025); Vj-96/2003/20; Vj-103/2003/13; Vj-156/2001/18; Vj-39/2015/115; Vj-39/2015/115; Vj-96/2003/20; Vj-103/2003/13.

as people suffering from illnesses or those who wishes to lose weight, health-conscious shoppers, etc.

3. THE NATURE OF THE LIABILITY

Advertising via influencers is essentially based on an agency contract.²⁶ The influencer, as the Agent, advertises the product or service on their own platform in exchange for financial compensation, goods or services (the value of which can be measured in monetary terms) or discounts, thereby fulfilling the task entrusted to them by the undertaking, as the Principal.²⁷ The benefits deriving from the advertising activity – the product or service reaches more consumers, targets anew consumer groups, addresses potential consumers in a way that the undertaking would not otherwise be able to reach, creates an appearance of reliability etc.²⁸ – are realised in the form of profit for the undertaking, not for the influencer.²⁹

The contract between the influencer and the undertaking, like all agency contracts, is a duty of care. The influencer undertakes to act with due care in the course of advertising, however, is not responsible for the results and will receive financial compensation even if the advertising does not achieve the results expected by the contracting undertaking in terms of reaching a sufficient number of consumers. On the other hand, if the failure to achieve the expected results is attributable to the influencer's conduct, their lack to act with due care, the influencer will not be entitled to receive financial compensation.³⁰

²⁶ 2013. évi V. törvény a Polgári Törvénykönyvről, 6:272. §.

²⁷ Megbízási szerződés fogalmi elemei, 2013. évi V. törvény a Polgári Törvénykönyvről, 6:272. §.

²⁸ Influencers can have an impact on the market for a given product or service, DICSŐ 2025, 22. Influencers are able to effectively reach consumers, FANNI MÁRKUS – ANNA GERA: #Reklám – Fogyasztóvédelmi megfelelés biztosítása az influencersmarketing során. *ESG*, 2025 (1). Credibility as a requirement, ZOLTÁN VERES: Fogyasztóvédelmi aktualitások – interdiszciplináris megközelítésben. *Iustum Aequum Salutare*, 2023 (1), 204. Directly addressing potential consumers, JAN TRZASKOWSKI: Identifying the Commercial Nature of 'Influencer Marketing' on the Internet. *Scandinavian Studies in Law*, 2018 (65), 83. Most customers dislike advertisements, however their opinion differs when it comes to the recommendations of influencers, DAVID A. HYMAN – DAVID FRANKLYN – LEO YANG – MOHAMMAD RAHMATI: Influencer Marketing on Instagram and TikTok: Entertainment or Deception? *Virginia Sports and Entertainment Law Journal*, 2024 (2), 155–156.

²⁹ Gazdasági Versenyhivatal: #GVH#Megfeleles#Velemenyevezer, II. 5.

³⁰ Via analogy, VÉKÁS – GÁRDOS 2024, a Ptk. 6:272. §-ához, 4. A megbízás és a vállalkozás elhatárolása.

Traditionally, when advertising is done through advertising agencies, all aspects of the advertisement are edited, and the undertaking is able to check the content and the visual representation of the advertisement in its entirety in advance. When promoting a product or service, the extent of freedom of influencers significantly exceeds the freedom of advertising agencies. Influencers prefer to be able to speak freely about the product (or service),³¹ as this establishes their credibility in the eyes of their followers.³² Being able to speak freely gives influencers a great deal of influence over the content of the advertisement, but this way the undertaking, who is benefitting from the advertisement has less say in the content. Therefore, it is necessary to distinguish between the responsibility that stems from the instructions given by the undertaking and thus falls within the undertaking's sphere of responsibility, and the responsibility that can be attributed exclusively to the influencer's conduct.

All legal relationships between consumers and undertakings are characterised by so-called information asymmetry.³³ This implies, that due to the nature of the transaction, the undertaking has significantly more information about the product or service offered than the consumer, thus resulting in an imbalance between the parties. However, a contractual relationship, regulated by private law, requires two equal parties.³⁴ Therefore, in the case of transactions between consumers and undertakings, legal intervention is necessary to balance the contractual positions. When consumers are addressed through an influencer, the influencer is placed in an intermediate position. Although influencers act in the interests of the undertaking,³⁵ and has financial interest in advertising the undertaking's product or service,³⁶ they do not necessarily have access to all the information that the undertaking itself has. And although they act in the

³¹ Gazdasági Versenyhivatal: #GVH#Megfeleles#Velemenyezer, II. 5.

³² TAMANY VINSON BENTZ – CAROLINA VELTRI: The Indirect Regulation of Influencer Advertising. *Food and Drug Law Journal*, 2020 (2), 185.

³³ JUDIT FAZEKAS: *Fogyasztóvédelmi Jog 2.0*. Budapest, Gondolat Kiadó, 2022, 58. ÁDÁM FUGLINSZKY: *Fogyasztói adásvétel, kellék és termékzavatosság – Elemzések az uniós jog és az új Ptk. kapcsolatához*. Budapest, Wolters Kluwer, 2016, 2. Az uniós jog és a magyar polgári jog fogyasztófogalma.

³⁴ Georg Jellinek ún. hatalmi elmélete alapján (GEORG JELLINEK: *Allgemeine Staatslehre*. Berlin, 1992.), a magánjogi jogviszonyokban „mellérendelt felek vesznek részt”, TAMÁS LÁBADY: *A magánjog általános tana*. Budapest, Szent István Társulat, 2018, 22.

³⁵ Gazdasági Versenyhivatal: #GVH#Megfeleles#Velemenyezer, II. 5.

³⁶ BOGLÁRKA HÓDI – DOMINIKA ANNA BARKÁSZ – ÁGNES BUVÁR: A paraszociális kapcsolat és az influenszer-márka kongruencia együttes hatása a szponzorált közösségi posztok hatékonyságára. In: ARIEL MITEV – TAMÁS CSORDÁS – DÓRA HORVÁTH – KITTI BOROS (eds.): „Post-traumatic marketing: virtuality and reality” – *Proceedings of the EMOK 2021 International Conference*. Budapest, Corvinus University of Budapest, 2021, 497.

interests of the undertaking and receive some form of financial compensation from it, they are also consumers themselves.³⁷

In most cases, the influencer does not have a contractual relationship with the consumers.³⁸ An exception for this is when the influencer, in addition to their advertising as influencer's activities, also provides personalised, paid services, possibly using the same platform.

In my opinion, there are three key aspects of the influencer's responsibility. The influencer is liable to the undertaking for the advertised product or service in accordance with the terms of the contract between them, based on the rules of breach of contract. Furthermore, they are responsible to the consumers for the quality of the information provided in relation to the product or service, given that they participate as intermediaries in the advertising of the product, in compliance with consumers' right to information as a fundamental consumers' right, for which the undertaking is obliged to provide. In addition to these, there may be legal obligations related to the advertised product, which must also be complied with. For example, there are special rules for the advertising of dietary supplements and over-the-counter medicines, which influencers must also comply with.

3.1. Liability based on civil law – a private aspect of consumer protection law

Legal literature and practice have not yet clarified the nature of influencers' responsibility towards consumers from a civil law perspective. However, their responsibility towards the contracting undertaking is clearly based on contractual basis.

Given that – in most cases – there is no contract between the influencer and the consumers, the question arises as to whether, in the absence of a contract, the rules of delictual liability may be applicable in the event of damage resulting from inappropriate, unprofessional or incorrect information provided by the influencer. Or rather the influencer can be considered an intermediary for the undertaking and can be held liable under the rules of intermediary liability.

³⁷ KINGA PÁZMÁNDI: A jogi értelemben vett fogyasztókép átfőrmálásáról, azaz mit űzen a viselkedési közgazdaságtan a jogi beavatkozás paradigmájáról. *Gazdaság és Jog*, 2020 (11–12), 76.

³⁸ HUSEYİN BULUT: Evaluation of the Concepts of Influencer and Influencer-Mediated Marketing and the Liability of the Influencer to Its Followers within This Framework. *Dokuz Eylul Üniversitesi Hukuk Fakultesi Dergisi*, 2024 (1), 754.

3.2. Liability based on unfair commercial practices – a public aspect of consumer protection law

Misleading consumers is a form of unfair commercial practices. Therefore, the liability is based on the ‘interest principle’.³⁹ So, the undertaking with the direct interest in the sale of the product or service in question, will be held liable,⁴⁰ even if the unfair commercial practice is carried out by another person, who is acting in the interest of the undertaking, based on a contractual relationship.⁴¹

The influencer’s liability is well-founded if they have an interest in the sale of the product or service they are advertising, through some form of incentive, e.g. commission.⁴² However, if there is no such direct interest, the influencer is subject to the rules of liability of disclosing parties.⁴³ In this sense, if the infringement relates solely to the manner in which the commercial communication is presented, the influencer may be held liable, but if they followed the instructions of the undertaking, they cannot be held liable, and joint and several liability applies to both the influencer and the undertaking.⁴⁴

4. SUMMARY

For all profit-oriented businesses, the accuracy and comprehensibility of information and advertising aimed at consumers is an important criterion.⁴⁵ This is due to the fact, that the consumers are informed about the characteristics of a product or service through these channels. The most accurate and detailed information possible is a prerequisite for consumers to be able to make the most appropriate decisions in the marketplace. The activities of influencers provide consumers with these necessary information. However, this form of

³⁹ 2008. évi XLVII. törvény a fogyasztókkal szembeni tisztességtelen kereskedelmi gyakorlat tilalmáról, 9. §.

⁴⁰ 2008. évi XLVII. törvény a fogyasztókkal szembeni tisztességtelen kereskedelmi gyakorlat tilalmáról, 9. § (1).

⁴¹ 2008. évi XLVII. törvény a fogyasztókkal szembeni tisztességtelen kereskedelmi gyakorlat tilalmáról, 9. § (2), EBD2014. K.5. „A tisztességtelen kereskedelmi gyakorlat tilalmának megsértéséért az a vállalkozás felel, amelynek a kereskedelmi gyakorlattal érintett áru értékesítése, eladásának ösztönzése közvetlenül érdekében áll [2008. évi XLVII. tv. 6. § (1) bek., 3. § (1) bek., 9. § (1) bek.]”.

⁴² Gazdasági Versenyhivatal: Tájékoztató az influenszermarketingről, III. 1. 32.

⁴³ Gazdasági Versenyhivatal: Tájékoztató az influenszermarketingről, III. 1. 33.

⁴⁴ 2008. évi XLVII. törvény a fogyasztókkal szembeni tisztességtelen kereskedelmi gyakorlat tilalmáról, 9. § (3).

⁴⁵ Vj-156/2001/18.

advertising relies vastly on the specific characteristics of the influencer's nature and personality, and they tend to lack the same extent of control of the undertaking over the advertising content as other forms of advertisement. The influencer acts as an intermediary between the undertaking and the consumers. All these factors contribute to influencer liability being an extremely complex form of liability, and lead to questions regarding the liability of the influencer and the undertaking which uses their services.

The influencer has some sort of liability in the direction of the contracting undertaking and the consumers as well. Based on the agency contract between the influencer and the undertaking, the influencer undertakes to act with due care in the course of advertising. The nature of the liability is based on contractual basis, therefore civil law regulates the aspects of the liability. The financial compensation is not linked to the result of the advertising activity, however, if the failure to achieve the expected results (reaching an expected number of consumers) is attributable to the influencer's conduct, their lack to act with due care, the influencer will not be entitled to receive financial compensation.⁴⁶

In most cases, the influencer does not have a contractual relationship with the consumers.⁴⁷ (An exception for this is when the influencer, in addition to their advertising as influencer's activities, also provides personalised, paid services, possibly using the same platform.) Legal literature and practice have not yet clarified the nature of influencers' responsibility towards consumers from a civil law perspective.

The question arises as to whether, the rules of delictual liability may be applicable, or the influencer can be considered an intermediary for the undertaking, and the influencer and can be held liable under the rules of intermediary liability.

To summarise it, the influencer is liable to the undertaking for the advertised product or service in accordance with the terms of the contract between them, based on the rules of breach of contract. They are responsible to the consumers for the quality of the information provided in relation to the product or service, given that they participate as intermediaries in the advertising of the product, in compliance with consumers' right to information as a fundamental consumers' right, for which the undertaking is obliged to provide. And there may be legal obligations related to the advertised product, which must also be complied with.

⁴⁶ Via analogy, VÉKÁS – GÁRDOS 2024, Ibid.

⁴⁷ BULUT 2024, Ibid.

BIBLIOGRAPHY

- KATALIN BARACSI: Digitális Gyermejjogok: reklám(ozó) gyerekek. *Családi Jog*, 2023 (2).
- VIKTOR BENE – ANITA HEGEDŰS – BERTALAN PUSZTAI: Laikus szakértők, fórumok, influencerek – Az egészséggel kapcsolatos információk mediális forrásai. *ME.dok*, 2020 (2).
- DAVID A. HYMAN – DAVID FRANKLYN – LEO YANG – MOHAMMAD RAHMATI: Influencer Marketing on Instagram and TikTok: Entertainment or Deception? *Virginia Sports and Entertainment Law Journal*, 2024 (2).
- GÁBOR LÁSZLÓ DICSŐ: Foglalkozástól való eltiltás: múltja, jelene, jövője – Alkalmazása a modern online végezhető tevékenységek körében, különös tekintettel a youtuberek és streamerek világára. *Büntetőjogi Szemle*, 2025 (1).
- JUDIT FAZEKAS: *Fogyasztóvédelmi Jog 2.0*. Budapest, Gondolat Kiadó, 2022.
- FRUZSINA FORRAI-MOLNÁR: Influenzsermarketing és fogyasztóvédelem. In: CSABA BALÁZS RIGÓ – IZABELLA SZOBOSZLAI – MARTIN MILÁN CSIRSZKI (szerk.): *A hazai fogyasztóvédelmi jog áttekintése: alapok, kihívások, aktualitások*. Budapest, Versenytükör Könyvek, 2023.
- ÁDÁM FUGLINSZKY: *Fogyasztói adásvétel, kellék és termékszavatosság – Elemzések az uniós jog és az új Ptk. kapcsolatához*. Budapest, Wolters Kluwer, 2016.
- BOGLÁRKA HÓDI – DOMINIKÁ ANNA BARKÁSZ – ÁGNES BUVÁR: A paraszociális kapcsolat és az influenszer-márka kongruencia együttes hatása a szponzorált közösségi posztok hatékonyságára. In: ARIEL MITEV – TAMÁS CSORDÁS – DÓRA HORVÁTH – KITTİ BOROS (eds.): *„Post-traumatic marketing: virtuality and reality” – Proceedings of the EMOK 2021 International Conference*. Budapest, Corvinus University of Budapest, 2021.
- HUSEYIN BULUT: Evaluation of the Concepts of Influencer and Influencer-Mediated Marketing and the Liability of the Influencer to Its Followers within This Framework. *Dokuz Eylul Universitesi Hukuk Fakultesi Dergisi*, 2024 (1).
- GEORG JELLINEK: *Allgemeine Staatslehre*. Berlin, 1992.
- TAMÁS LÁBADY: *A magánjog általános tana*. Budapest, Szent István Társulat, 2018.
- ANNA LÉKÓ: Az influenszerek tevékenységének jogi szabályozása. *Magyar Jog*, 2024 (3).
- FANNI MÁRKUS – ANNA GERA: #Reklám – Fogyasztóvédelmi megfelelés biztosítása az influenszermarketing során. *ESG*, 2025 (1).
- PÉTER MISKOLCZI BODNÁR: Fogyasztóvédelmi szabályok a Ptk.-ban. *Magyar Jog*, 2018 (11).
- KINGA PÁZMÁNDI: A jogi értelemben vett fogyasztókép átfarmálásáról, azaz mit üzen a viselkedési közgazdaságtan a jogi beavatkozás paradigmájáról. *Gazdaság és Jog*, 2020 (11-12).
- SOLANGE G. STAMATOS: Get Ready with Me: Unveiling the Regulatory Realities of Influencer Marketing. *Boston College Law Review*, 2025 (1).

JAN TRZASKOWSKI: Identifying the Commercial Nature of 'Influencer Marketing' on the Internet. *Scandinavian Studies in Law*, 2018 (65).

LAJOS VÉKÁS – PÉTER GÁRDOS (szerk.): *Nagykommentár a Polgári Törvénykönyvről szóló 2013. évi V. törvényhez*. 2024, ISBN 978-963-594-333-3.

TAMANY VINSON BENTZ – CAROLINA VELTRI: The Indirect Regulation of Influencer Advertising. *Food and Drug Law Journal*, 2020 (2).

JÓZSEF ZAVODNYIK: *Nagykommentár a tisztességtelen kereskedelmi gyakorlatról szóló törvényhez*. Budapest, Wolters Kluwer Kft., 2013.