

# **Regulating virtual influence in Lebanon**

**By Christian Youssef**

## **Introduction**

In the relentless grip of modern society, social media platforms have become powerful tools for communication and sharing information. However, this unprecedented access to information has also given rise to a new phenomenon known as misinformation. Recent events have particularly highlighted the extent of this issue, with a constant barrage of imagery, videos, and claims flooding our virtual spaces. The scale of this subject is concerning because information may be conflicting, and any piece of it might either be true or fake. It is undeniable that social media has played a significant role in exacerbating this crisis, especially when localized events are scrutinized by people all over the globe, who form an opinion solely based on what they perceive through a medium, simply because it's impossible for each person to physically examine evidence. This drawback accompanies the benefit of instant humankind connectivity where a lot of people now feel concerned with matters happening far away. The globalization of issues in addition to the ability for anyone and everyone to share information instantly and anonymously has created a vitalizing ground for falsehoods to spread like wildfire.

The consequences of misinformation on social media are far-reaching, infiltrating almost every aspect of our lives. In the last two decades, we have witnessed the rise of virtual systems that have become the dominant means of representing reality. Due to their complexity, they may not adhere to the same principles as the real world, instead employ their own set of rules, although still rooted in the physical world by their infrastructure which is raw, hidden and technical. Questions arise around the supremacy of

conventional laws in this field and some problems appear when these virtual systems that represent reality deviate from the truth.

The rapid dissemination of information on platforms has made it easier for false narratives and conspiracy theories to gain traction. This can be attributed to several factors, first is the lack of a robust fact-checking system. With millions of users posting content on these platforms daily, it becomes nearly impossible to verify the veracity of every piece of information shared. There's ample room for false claims and fabricated stories to circulate freely without being adequately scrutinized. Another contributing factor to the spread of misinformation is the way social media platforms are designed, to personalize content based on users' interests and preferences, as a result, they're more likely to be exposed to information that aligns with their existing beliefs and opinions. This creates a self-reinforcing cycle where individuals are trapped in an echo chamber, shielding them from diverse perspectives and facilitating the spread of misinformation within their social circles. Moreover, the algorithms employed by social media platforms are tailored to prioritize engagement. This means that controversial or sensational content that appeals to the emotions and biases of users is more likely to garner more attention and traction than accurate and verified information, further fueling its spread.

In scientific terms, a delusion occurs when an individual's perception of reality does not align with the actual truth. These virtual perceptual systems constructed alongside the real world must be monitored for misinformation and moderated lest they become delusional in nature. What makes this situation all the more perilous is that these virtual spaces may distort a person's understanding of reality and shape their actions and decisions. In the face of a distorted perception, attempts to navigate the real world can have distressing consequences, especially when individuals act upon false

information they encounter in these digital spaces. Individuals or groups all over the world may be driven to the midst of conflicts fueled by false narratives, misguided beliefs, and manipulated opinions, who would otherwise not clash nor pay any regard to each other or the matter. False or misleading information can sway public opinion, undermine trust in institutions, erode democratic processes, and exacerbate social divisions. It can also have severe implications in areas such as public health, where misinformation about vaccines, for example, can put lives at risk. Subsequently, how apt are Lebanese legal frameworks for regulating virtual influence?

Addressing this problem requires a multi-faceted approach, ethical and legal initiatives must keep up with rapid technical improvements. Utilizing analytical and comparative methodology, this study consists of two main parts, each split into two subdivisions. The issue will be discussed in the first part from a conceptual standpoint, defining virtual influence and its consequences, while the second part covers the practical approach to regulating virtual influence from general control to considerate protection. The objective is to explore the various Lebanese legal frameworks identifying with this new issue, after having examined pioneering foreign legal initiatives, in order to provide suitable suggestions for awaited local reform.

## **I. The principle of regulating virtual influence**

In order to combat misinformation, it's crucial to empower individuals with the necessary tools to discern fact from fiction online, for example, teaching critical thinking skills, verifying the sources of information before sharing or believing, fact-checking techniques, and promoting digital citizenship by incorporating media literacy programs into educational curricula and public awareness campaigns. These steps aim to foster a society that is better equipped to navigate the virtual space.

First and foremost, the study starts by defining virtual influence before discussing its main consequences.

### **1- The elements of virtual Influence**

Marketers have long used the term "influencer" to describe the sway that those with fame, wealth, power, or charisma can wield over public opinion. The arrival of social media gave anyone the chance to build their own audience on platforms like YouTube, Instagram, Facebook and TikTok and make money by promoting products and services. Unlike traditional marketing, online activity relies on the influencer's ability to develop a personal connection with their audience, usually by positioning themselves as someone who can be admired and trusted. Influencers who have a lot of followers can really benefit from sponsorship deals or affiliate marketing which means selling products on behalf of brands. From a brand's point of view, influencer marketing is often a good strategy compared to more traditional marketing channels due to changing consumer behavior in recent years as audiences have diverted their attention away from newspapers, television, and other traditional media.

AI has many uses when it comes to assisting with the day-to-day work of an influencer. It can carry out data analytics to find out what content is

working best or assist with finding brands that could be a good fit for collaborations as well as carrying out many business tasks that self-employed people need to keep on top of, like scheduling, regulatory filing and diary management.

Engagement is a term used to describe the process of influencers keeping their audiences happy, by creating and posting quality content often, appealing to fans' interest and keeping them coming back, interaction with fans by replying to their comments for example is also a positive step in this regard. Brands and sponsors look for interactive profiles to promote their products on, promising financial returns through sales. In what has become mainstream business, the process of engaging is often outsourced to create an illusion of a personal connection between personalities and fans, which the personality simply would not have time to develop individually with every fan. The other side of the coin involves generative AI being used to create influencers or idols from scratch, digital entities known as *virtual influencers*.

While virtual influencers using Computer-Generated Imagery previously existed, they were not fully AI-generated, they were rather designed and voiced by humans with the aid of motion and voice capture, which requires human involvement. Today we're starting to see digital entities generated fully by AI, significantly saving time and cost. The result is a digital avatar that captivates adoring fans while offering unequaled customization and uninterrupted availability. While promising connection, one should remain mindful that they're probably just a means for marketers to achieve profit. The AI technology itself may generate content and interact with the audience, but there is a human team behind building the influencer's brand and managing their social media accounts. Companies are willing to give more money to influencers, with the influencer market expected to grow

about 30 per cent this year, according to a 2023 benchmark report by Influencer Marketing Hub<sup>1</sup>. That report also showed more than 60 per cent of agencies and brands plan to use AI or machine learning to create effective campaigns.

With few exceptions, most businesses currently agree that being open about the virtual status of their generative AI models feels more honest, after all, they would like their operations to be perceived as ethical. Therefore, commitment to authenticity and transparency are important ethical considerations. Passing off AI-generated content as authentically human is clearly an ethical breach.<sup>2</sup>

There are so many examples nowadays of successful models created by artificial intelligence. “Aitana”, designed by Rubén Cruz, founder of “The Clueless” agency, is just one of them. The business was going through a tough time because it didn't have many clients, so they started analyzing the issue and realized that many projects were being put on hold or cancelled due to problems beyond their control, as it turns out, most difficulties were often due to the influencer or model in question. That’s when they decided to create their own influencer, to use as a model for the brands that approached them. They made sure her physical appearance is as close to perfection as possible. She promised to be a better investment and would save them from being dependent on other people, especially the unreliable.

To make her more relatable to the audience, the agency team had to provide them with a life story to follow, so the team meets once a week to

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<sup>1</sup> Geyser, W. (2023, Oct 30). The state of influencer marketing 2023: Benchmark report. *Influencer Marketing Hub*. <https://influencermarketinghub.com/influencer-marketing-benchmark-report/> (visited on 19/12/2023).

<sup>2</sup> Marr, B. (2023, Dec 1). How online influencers and idols are using generative AI. *Forbes*. <https://www.forbes.com/sites/bernardmarr/2023/12/01/how-online-influencers-and-idols-are-using-generative-ai/?sh=7f375329720c> (visited on 19/12/2023).

create Aitana's life. They decide what she will do during the week, which places she will visit, and which photos will be uploaded to indulge the followers who want to know about her. In a sense, they offer alongside her looks a sort of personality. After studying what society likes most, the tastes and interests that have been trending in recent years were carefully exhibited to make her widely appealing<sup>1</sup>. In just a few months, she has managed to gain a following on Instagram and her photos get thousands of views and reactions. She even receives messages from people who are unaware that she is not an actual person. She earns a respectable amount of money and has recently become the face of a sports supplement company. The agency was so satisfied with the experience that they designed a second virtual model called “Maia” with a different “personality”.

It was noticeable that most companies in this field share one major concern: that the audience might confuse their AI models for real people. In this case, the names of the models “Aitana” and “Maia” were not chosen at random, they both contain the acronym (AI) for artificial intelligence. Unfortunately, with the nature of the work, there will always be some people who think it’s real. Some companies have tried to mitigate that by adding a disclaimer to their digital influencers' posts, as well as their bios, but there will always be room for confusion.

## **2- The consequences of virtual influence**

In addition to concerns that fans might imitate behavior they see online, such powerful tools affecting public opinion can be used for marketing almost anything; product, service, or cause. Some danger has already been perceived by the means of fake celebrity endorsement, which is a tactic used by scammers to build trust with their victims. It has become

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<sup>1</sup> Llach, L. (2023, Dec 2). Meet the first Spanish AI model earning up to €10,000 per month. *euronews*. <https://www.euronews.com/next/2023/12/02/meet-the-first-spanish-ai-model-earning-up-to-10000-per-month> (visited on 11/12/2023).

rather common for realistic digitally manipulated video known as deepfake content by Generative AI to deploy potential fraud in a more personalized and targeted way. For example, a convincing fake voice or video of a known celebrity asking the public to donate money for a cause.

An associate professor of marketing at the University of Oxford, Cammy Cronic is researching AI models and influencers, she explains<sup>1</sup> that from a brand perspective, there's a lot of safety in working with virtual influencers, because there's a lot more control over what the message says and how they present themselves. From a consumer's perspective, hyper-realistic influencers can be appealing. From a model's perspective, this takes away business from real people.

There are questions about the effects of building a social connection with digital entities on fans' mental health and whether it would be healthy for fans to develop emotional attachments to AI versions of real people or AI-generated characters who don't really exist. Even the term "really exist" may be revisited for definition with the onset of online meetings, work, school and long-distance relationships. The way things are going, technology seems destined to improve with more lifelike engagement. Whether AI influencers could become the new norm on social media will depend on user acceptance and addressing transparency and trust issues. Nonetheless, AI models, many of whom were sculpted to be conventionally attractive with ideal bodies, might exacerbate the body image and mental health issues already experienced today by social media users. Research suggests a third of teen girls felt worse about their bodies after scrolling

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<sup>1</sup> Cumming, E. (2023, Dec 4). This woman is Spain's hottest model – but she's not real. *The Telegraph*. <https://www.telegraph.co.uk/news/2023/12/04/aitana-lopez-ai-influencer-social-media-artificial/> (visited on 11/12/2023).



Instagram, in some cases leading to eating disorders and suicidal thoughts.<sup>1</sup>

The technology is able to create hyper attractive, flawless individuals that would appeal to most social media users, who would then be easier to influence, said Jennifer Mills, a psychologist at York University in an interview with Global News<sup>2</sup>, she has been researching and publishing studies on how social media use can affect people's body image<sup>3</sup>. She stated that we may be more likely persuaded by people that we see as being attractive and the potential impact of AI on mental health remains to be seen. However, she reasons that if people see a flood of perfected images created by AI on their social media, they may lose their sense of what "real people" actually look like. Since many influencers' images are already edited to perfection, the expectation that AI is not real and perhaps impossible to achieve in real life might alleviate some of the pressure felt by users, so long as they're properly labelled as AI.

## **II. The implementation of regulating virtual influence**

Distinguishing between real and AI people online may become increasingly difficult, this is particularly problematic in an advertising context. As the market for virtual influencers grows, so will the need for clear guidelines on how this content is used and disclosed. Laws must be placed to reassure customers while also encouraging companies to innovate. Clear labelling and disclosure mechanisms will be crucial to informing social media users about the presence of AI influencers and AI-generated content and a

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<sup>1</sup> Howlett, K. (2021, Oct 13). We don't have to accept the dark side of social media — there are steps we can all take. *Toronto Star*. [https://www.thestar.com/opinion/contributors/we-don-t-have-to-accept-the-dark-side-of-social-media-there-are-steps/article\\_7926f5ef-df0e-50ad-b419-6539be98d861.html](https://www.thestar.com/opinion/contributors/we-don-t-have-to-accept-the-dark-side-of-social-media-there-are-steps/article_7926f5ef-df0e-50ad-b419-6539be98d861.html) (visited on 11/12/2023).

<sup>2</sup> Aziz, S. (2023, Nov 4). AI influencers: Why big brands are turning to virtual trendsetters. *Global NEWS*. <https://globalnews.ca/news/10069079/ai-influencers-social-media/> (visited on 11/12/2023).

<sup>3</sup> Faculty of Health, *York University*. <https://health.yorku.ca/health-profiles/index.php?mid=162289> (visited on 11/12/2023).

comprehensive regulatory framework should be established that is not limited to individual countries. Some countries like Canada, France, Norway and India have recently put in place corresponding regulation, while others like the UK are now studying upcoming initiatives. Due to constraint, we compare with France's initiative since it's close to the Lebanese system, starting with frameworks that sustain general control for virtual influence and ending with a more targeted approach towards protecting the vulnerable.

### **1 – The general censorship approach to virtual influence**

Currently, there's no comprehensive law specific for the matter of online influencing or social media in Lebanon. In anticipation of the required reform, certain scattered provisions may serve as subsequently displayed, in addition, they may indicate the competent oversight body and competent court. The Lebanese Cybercrimes Bureau, part of the Lebanese Internal Security Forces is known to handle digital crime investigations, under the supervision of the competent Judge. Individuals with undesirable online activity may be called upon to delete social media posts with slight infractions such as criticizing others, officials, or certain political and religious views. It is understood, in general, that the Lebanese judicial system practically handles issues of online influence in respect of the criminal code. Generally, a court order is required to block a website or restrict a user's access to an online platform. In some cases, the government may legally take matters into its own hands since it has power over internet access to specific websites and apps considered a threat. Lebanese internet service providers operate under the control of the telecommunications regulatory authority of the corresponding ministry.

Lebanon's media censorship started in 1947 by subjecting all cinematic tapes to monitoring under media censorship law of 27/11/1947. The

surveillance department of the General Directorate monitors the tapes prepared for showing in the Lebanese Republic, the control targets cinematic tapes of various types, whether imported from abroad or made in Lebanon. A special committee convenes if there's a reason to prevent the showing of an entire film or some of its scenes<sup>1</sup>.

Among many functions of the General Directorate of General Security stated on the official governmental website, Media Censorship is duly noted as follows:

- The surveillance of audiovisual Media, and the prior inspections of films.
- In charge of studies related to the organization and implementation of the surveillance that printed press is subject to, as well as audiovisual inspections.
- Ensuring the proper implementation of laws and regulations.
- Ensuring the right implementation of the laws and rules related to media censorship.

Therefore it's understood that the Directorate of General Security is authorized to censor all foreign magazines, books and films before they are distributed as well as political or religious material that is deemed a threat to the national security of Lebanon<sup>2</sup>. In this respect, it may monitor the influence of virtual systems but should limit the right to do so, for practical reasons, to substantial interventions. Normal enforcement would be more suitably handled according to new consumer protection laws that truly

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<sup>1</sup> It consists of the director of Publicity and Publishing, in addition to representatives from the ministries of Foreign Affairs, Education, Economy and Social Affairs, among others. The committee expresses its opinion by majority vote regarding approving or rejecting the showing of the film or cutting some of its sections. If the committee decides to refuse to show the film, the Minister of Interior issues a decision to that effect.

<sup>2</sup> Sciacchitano, F. (2015). Assessment of media legislation in Lebanon, *MedMedia project*, p. 4-5. [https://lebanon.mom-gmr.org/uploads/tx\\_lfrogmom/documents/2-1409\\_import.pdf](https://lebanon.mom-gmr.org/uploads/tx_lfrogmom/documents/2-1409_import.pdf) (visited on 17/12/2023).

specify oversight bodies and competent courts, unlike the current confusion created between Press and Publications Law, Consumer Protection Law and the Criminal code.

Since Internet services have become widely accessible in Lebanon, newspapers and television channels have shifted to posting online. The new sites initially appeared as electronic versions of their parent equivalents, only to be reconditioned into more useful sources of information with several updates per day. Hence, more information about political, economic and cultural events can be found online and is followed mostly for the “breaking news” services. In addition to websites of the main local newspapers and television channels, self-proclaimed independent sites may publish updates on issues even though not always a reliable source of information.

Lebanese Law number 382/94 also known as the **1994 Audio-visual Law** establishes a “licensing board” known as the National Audio-visual Media Council, or AVMC<sup>1</sup>. Article 36 of the Audio-visual Law is the only limit to television advertisement in Lebanon, it requires that “television advertising shall comply with public order and morals, and shall be in accordance with the requirement of decency”, television advertising should not mislead the consumer, instead, should provide honesty and transparency. Similarly, article 4 of legislative decree number 88 issued on 22 April 1975 requires that television advertising does not mislead the consumer and assigns the Consumer Protection Department in the Ministry of Economy and Trade to monitor the accuracy of commercial advertisements. In general, the principle of respect of religious, philosophical, and political beliefs is ensured by the Constitution which in

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<sup>1</sup> Its ten members selected half by parliament and half by the cabinet, should be recognized for their intellectual, literary, scientific and technical backgrounds and experience.

turn prohibits any advertising that violates a religious, philosophical or political conviction.

There's no specific legislation prohibiting advertisement of tobacco products or alcoholic beverages or websites such as sports predictions. Unfortunately, economic considerations take precedence over consumer concerns. There's no particular prohibition of subliminal or surreptitious advertisement. Necessary regulation is also lacking for advertising interruptions in respect of the viewer, unlike France, duration and frequency of the breaks must be set. Under the French Consumer Code, unfair (deceptive or aggressive) commercial practices, offline and online, are prohibited, especially any practice that does not meet professional diligence standards and alters, or is likely to materially alter, consumers' economic behavior. Advertisers must provide objectively verifiable advertising content. An online advertisement must be clearly identified as such and indicate the individual or entity on whose behalf it has been published<sup>1</sup>. Specific restrictions on online and offline advertising also apply depending on the nature of products or services involved, like those regarded as dangerous such as gambling or weapons. For example, the French *Evin* law applicable offline and online prohibits tobacco advertising and subjects advertisements for alcoholic beverages to a rigorous regime. Similarly, the Monetary and Financial Code prohibits direct or indirect electronic advertising of some speculative trading services. Furthermore, surreptitious advertising and subliminal techniques, which may be particularly prevalent on video-sharing platforms, are banned. Generally speaking, online users must abide by the professional advertising regulatory authority (ARPP), in particular, the Recommendation on Digital Advertising Communication.

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<sup>1</sup> UGGC Avocats - Khayat, C., Logeais, E., & Pecoraro, A.M. (2022, Oct 8). Q&A: online advertising in France. *Lexology*. <https://www.lexology.com/library/detail.aspx?g=08c63cab-acf7-4b47-916e-58b87777a98d> (visited on 17/12/2023).

Personal data use in online promotion, like targeted advertising and online behavioral advertising are regulated by the principles of the General Data Protection Regulation (GDPR) and by Law No. 78-17, as well as the National Commission for Information Technology and Civil Liberties (CNIL) guidelines. The use of each type of non-technically essential cookies, including those used for targeted advertising, are subject to prior clear and concise information and express consent. The CNIL advises a brief explanation of the functions of each kind of cookie, along with an option to accept or reject them immediately upon accessing the website.

Certain activities carried out by "influencers" on video platforms may be considered concealed advertising and are sanctioned by the French Directorate-General for Competition, Consumer Affairs and Fraud Control (DGCCRF).

The broad, spread-out provisions applicable to influencers may generate difficulties in understanding their legal status, notably whether influencers are employees of the brands they advertise for, therefore subject to labor law, or if they should be considered independent contractors, with their relationship with brands subject to commercial legislation. Labor law requires the existence of a subordinate relationship to qualify an employer and employee relationship, which would result from the employer exercising direction, control, and sanction powers over the employee. Influencers are typically independent in the way they deliver their services, with no control over their working hours. Even so, the brand reserves the possibility to control the content created by the influencer before publication. Ultimately, the nature of the relationship between an influencer and a brand requires a case-by-case analysis of the contractual clauses between the brand and the influencer in addition to the services provided.

In Lebanon, there are no specific regulations to online or digital media advertising at this time. However, Decree No. 8861 (issued July 25, 1996) “Regulation of Advertisement and their Official Authorization” applies to all types of advertising media with the exception of those covered by specific legislation such as radio, television, and print magazines. The decree defines what is meant by advertisement, and stipulates that in all advertisements consideration should be given to the preservation of the national pride and the general peace in terms of values, environment, and the natural landscape, as well as heritage and historical sites.

Due to the prominence of misinformation in this field, and the use of online “cookies”, suitable legislation is necessary. The right to privacy is protected by the Constitution and unlawful data collection for targeted advertising is prohibited by data protection law No.81/2018 and other dispersed provisions.

Remarkably though, the Lebanese Audio–Visual Law doesn’t allow reporters and news broadcasters to appear in advertisements, visually or acoustically, to avoid confusion in the minds of the viewers between the program and the commercial advertisement which may undermine the news anchor’s integrity and challenge the viewer’s confidence<sup>1</sup>.

In related developments, an upcoming American news station will be broadcasting the first ever AI–generated news anchors<sup>2</sup>, Los Angeles–

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<sup>1</sup> For comparison, with regard to consumer protection, the French Digital Economy Act of 2004 (Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l’économie numérique) mandates that any advertising be distinctively identified as such. Considering that they effectively provide advertisement services, influencers are required to clearly mention that a product promotion or any paid content included in their social communications is an advertisement. Failure to properly disclose a commercial relationship between an influencer and a brand could be considered a deceptive commercial practice (Article L.121-3 of the French Consumer Code). Non-compliant influencing campaigns could therefore expose influencers to up to two years of imprisonment, a €300,000 fine, or even up to 10% of the average annual turnover or 50% of the expenses incurred by carrying out the advertising.

Armingaud, C.E. (2022, Aug 17). Influencers and Digital Advertising. *The National Law Review*. <https://www.natlawreview.com/article/influencers-and-digital-advertising> (visited on 17/12/2023).

<sup>2</sup> Hess, P., & Liberatore, S. (2023, Dec 13). Shock as news channel announces it'll become first to use AI Anchors from next year: 'Utterly terrifying'. *Daily Mail Online*.

based station Channel 1, which will launch in 2024, aims to be the first nationally syndicated news station to use AI avatars instead of human anchors. The station's news segments will use a mix of AI-generated people, digital avatars compiled using doubles of real actors, and actual human anchors for the channel's most important reports. This will feature Computer-generated anchors reporting the news like real humans would. There are also plans for an app that enables the development of a translation feature which adapts the generated anchor and message to the language of the viewer, in hopes to become a global channel. The founder noted that Channel 1 will be transparent about what footage used in reports is real and what is AI-generated.

## **2- The protection of the vulnerable from virtual influence**

The media in Lebanon considers Article 13 of the current Lebanese Constitution to be the main pillar supporting its work, it provides that "The freedom to express one's opinion orally or in writing, the freedom of the press, the freedom of assembly and the freedom of association shall be guaranteed within the limits established by law."

**The Lebanese Consumer Protection Law** number 659 of February 4<sup>th</sup> 2005 witnessed some effort to regulate aspects of media activity but has come up short, especially compared to other regulations such as French law. The Lebanese law targets only misleading advertising and says nothing about the comparative advertising on characteristics or prices. In cases relating to imitation of product or service or unfair competition, the role is left for Lebanese jurisprudence which refers back to the Lebanese Criminal Code. There's no clear definition of television advertising in



Lebanese law despite references to the notion in several articles of the Lebanese law on audio–visual programs.

In France, influencer marketing was not specifically regulated until new legislation was put in place in June of 2023, the combination of frameworks that preceded was generally applicable to both advertising and consumer protection. After the reform, French legislation now regulates online commercial influence and combats abuses by influencers on social media, « **LOI n° 2023–451 du 9 juin 2023 visant à encadrer l'influence commerciale et à lutter contre les dérives des influenceurs sur les réseaux sociaux** »<sup>1</sup>. The text presents a legal definition for the influencer as a person (individuals or legal entities) engaging in commercial influence through electronic means who, for remuneration or in–kind benefits, mobilizes their notoriety with their audience to communicate online content aimed at promoting, directly or indirectly, goods, services, or any cause. It also proposes a definition for the Influencer's agent as the person who, for a fee, represents influencers with natural or legal persons and, where applicable, their representatives, for the purpose of promoting goods, services, or any cause.

While it might not cover everything an influencer might do, the new law prohibits influencers from creating paid content promoting certain practices such as cosmetic surgery and products containing nicotine. It also restricts the promotion of several medical devices. It tackles sports betting and gambling. Influencers will no longer be able to promote subscriptions to sports forecast services or sports betting sites and financial products like cryptocurrencies. The promotion of money games will be limited to platforms that technically restrict access to minors and audiences should be

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<sup>1</sup> French Republic. (2023, Jun 10). LOI n° 2023-451 du 9 juin 2023 visant à encadrer l'influence commerciale et à lutter contre les dérives des influenceurs sur les réseaux sociaux (1). *Légifrance*. <https://www.legifrance.gouv.fr/eli/loi/2023/6/9/2023-451/jo/texte> (visited on 17/12/2023).

warned about any promotion involving gambling or betting. The penalties for non-compliance can go up to two years in prison and a fine of €300,000<sup>1</sup>. Perhaps even more painful for some, they may be banned from the influencing business.

Promotional images of cosmetics for example, must disclose whether they have been retouched or made more attractive by the use of a filter in order to ensure transparency for consumers. The Law requires certain information to be displayed on content published by influencers, when they promote products or services, they must clearly display the words “advertisement” or “commercial collaboration” on the image or video throughout the promotion. Particularly, if the content includes edited images, such as a filter, the content must clearly display the words “Edited Image” on the image or video throughout the promotion and if the content includes AI-generated images, such content must clearly display the words “virtual images” on the image or video throughout the promotion. Highlighting its importance, the second paragraph of Article 5 of Law no. 2023-451/ June 9, 2023 is provided thereunder<sup>2</sup> in its original form. Not only must influencers label all content they are paid for or sponsored by a third party to promote or which is filtered or edited, they also need to comply with existing French advertising laws regulating the promotion of products and services, including, for example, the requirement to add

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<sup>1</sup> Duboust, O. (2023, Jun 5). France has approved a law that targets influencers. What does it mean for social media stars?. *euronews*. <https://www.euronews.com/next/2023/06/05/france-has-approved-a-law-that-targets-influencers-what-does-it-mean-for-social-media-star> (visited on 17/12/2023).

<sup>2</sup> LOI n° 2023-451 du 9 juin 2023, Art 5, Parag 2 : «II. Les contenus communiqués par les personnes mentionnées à l'article 1er de la présente loi comprenant des images ayant fait l'objet :

1) D'une modification par tous procédés de traitement d'image visant à affiner ou à épaissir la silhouette ou à modifier l'apparence du visage sont accompagnés de la mention : « Images retouchées » ;

2) D'une production par tous procédés d'intelligence artificielle visant à représenter un visage ou une silhouette sont accompagnés de la mention : « Images virtuelles ».

Les mentions figurant au présent (paragraphe) II sont claires, lisibles et identifiables sur l'image ou sur la vidéo, sous tous les formats, durant l'intégralité du visionnage. »

health warnings on sodas or processed food<sup>1</sup>. Moreover, the law prohibits the use of wild animals by influencers if they do not keep them legally, except in collaboration with an establishment authorized to keep such animals, like a zoo. This ensures the protection of influencers from reckless practices while also protecting the public from attempting to replicate dangerous behavior, especially the vulnerable audience who are easily influenced.

As part of the regulation, the text includes measures to potentially hold platforms accountable. Influencers, their agents, or advertisers will be required to enter into written contracts once they reach a certain threshold of remuneration or in-kind benefits, to be defined by decree. The novelty becomes apparent with the introduction of the principle of joint liability among the advertiser, the influencer, and their agent for the compensation of damages caused to third parties in the execution of the commercial influence contract that binds them. These contracts must include certain mandatory clauses like assigned missions, payment conditions and submission to French law when subscribers in France are targeted. While many successful influencers operate from abroad, the text aims to require those operating from outside the European Union, Switzerland, or the European Economic Area to engage in civil liability insurance within the EU. The stated goal is to create a fund to compensate potential victims, they will also have to designate a legal representative in the EU.

The Directorate General for Consumer Affairs, Competition and Fraud Prevention (DGCCRF) will be responsible for effectively enforcing this law, a decree on its new competences is expected to be issued which will strengthen its powers of injunction and enable it to dispense suitable penalties if the influencer does not comply. The authority may ask the

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<sup>1</sup> Yau, W. (2023, Jul 10). France says “oui” to regulating influencers – by law. *The Legal 500*. <https://www.legal500.com/developments/thought-leadership/france-says-oui-to-regulating-influencers-by-law/> (visited on 17/12/2023).

platform to take various measures to put an end to the illegal content such as broadcasting a warning to consumers or limiting or blocking access to a social network account.

With the prevalence of children influencers on online platforms, French legislation was also adopted to protect them. « Loi n° 2020-1266 du 19 octobre 2020 visant à encadrer l'exploitation commerciale de l'image d'enfants de moins de seize ans sur les plateformes en ligne » regulates the activities of influencers under the age of 16 (Kidfluencers). Prior to the child performing any activity on a social media platform, the child's parents or legal representatives are required to petition for an authorization or approval before the French administration. Certain thresholds are put in place relating to video duration, number of videos, or revenue associated with published videos. In addition to specific regulations, a portion of the income received by such minors are to be deposited in a special state-handled account (Caisse des Dépôts et Consignations) and not available to them until their majority or emancipation. This legal provision ensures the minor influencers' protection as a legally vulnerable person from their own actions or even that of their parents. What's also important under this new law is that Kidfluencers can easily exercise their right to be forgotten on the video-sharing platforms<sup>1</sup>. This framework specific to the country of France places additional duties on online platforms to implement measures in support of public policies<sup>2</sup>.

With rapid advancement in AI technology, digitally manipulated versions of real people known as deepfake have become common, raising concerns

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<sup>1</sup> Armingaud, C.E. (2021, Nov 11). French framework for “kidfluencers” – yet another undertaking for online platforms. *K&L Gates Fashion Law Watch*. <https://www.fashionlawwatch.com/2021/11/29/french-framework-for-kidfluencers-yet-another-undertaking-for-online-platforms/> (visited on 17/12/2023).

<sup>2</sup> The General Data Protection Regulation (GDPR) provides supplementary protection related to children's personal data. For most online services, Article 8 GDPR requires the consent of the parent or guardian in order to process a child's personal data on the grounds of consent up to a certain age determined by each member state (between 13 and 16 years old).

around privacy, defamation and abuse. Existing laws do not offer a comprehensive regulatory framework to address these concerns, meaning that there's a lack of clear regulations governing the protection of one's image in relation to AI. Personality rights generally consist of two types: the right of publicity; to keep one's image and likeness from being commercially exploited without permission or contractual compensation, which is similar (but not identical) to the use of a trademark; and the right to privacy, or the right to be left alone and not have one's personality represented publicly without permission. Legal innovation has stepped up to include "simulation rights" clauses in contracts to contractually govern how their likeness may be used. Some celebrities have embraced signing deals that allow brands to create videos with AI, practically giving away their image rights to corporations who can use their likeness in whatever way they deem fit. In an agreement, the star grants permission for the use of a digitally manipulated version of them to promote the brand. This opens the door to all kinds of creative options for companies who will be able to micro-target consumers and become increasingly persuasive.

Obvious remarks come to mind around exploitation risks and the dilemma of proper enlightened consent, considering that the parameters of this innovation are still very elastic, the extents of which requires thoughtful legal study. For instance, social media users agree through adhesion contracts to the terms set by the platform. Initiatives of the sort are known to be swiftly implemented through updates but rarely scrutinized by the user. For example, TikTok has updated its *community guidelines* to mandate disclosure of manipulated media by including the stipulation<sup>1</sup> that

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<sup>1</sup> *"We welcome the creativity that new artificial intelligence (AI) and other digital technologies may unlock. However, AI can make it more difficult to distinguish between fact and fiction, carrying both societal and individual risks. Synthetic or manipulated media that shows realistic scenes must be clearly disclosed. This can be done through the use of a sticker or caption, such as 'synthetic', 'fake', 'not real', or 'altered'.*

*We balance the expressive value that synthetic media has against the risk of harms to individuals. We do not allow synthetic media that contains the likeness of any real private figure. While we provide more*

also delivers definitions of the terms “Synthetic media”, “Realistic scenes”, and “Public figures” in addition to some more details. According to the source, **Synthetic media** is content created or modified by AI technology. It includes highly realistic digitally–created (fake) content of real people, such as a video of a real person speaking but their words have been modified or changed. **Realistic scenes** include showing fake people, places or events that look like they are real. **Public figures** are adults (18 years and older) with a significant public role, such as a government official, politician, business leader, and celebrity. People under the age of 18 are not identified as public figures whatsoever.

Worldwide inclination, for now, is to set up legal limits called guardrails or guidelines for AI, instead of strict regulation, to avoid the risk of stifling its growth. Exhaustive oversight is left to each platform within the duly provided legal frames. The terms and conditions of use in the above–mentioned case showcase ethical and responsible action on behalf of the company, which is partly what is demanded. Other actions are also known to be assumed pursuing misinformation.

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*latitude for public figures, we do not want them to be the subject of abuse, or for people to be misled about political or financial issues. We do not allow synthetic media of public figures if the content is used for endorsements or violates any other policy. This includes prohibitions on hate speech, sexual exploitation, and serious forms of harassment (learn more about public figures in Harassment and Bullying).”* ByteDance Ltd. (2023, Mar). Community Guidelines: Integrity and Authenticity: Synthetic and Manipulated Media. *TikTok*. <https://www.tiktok.com/community-guidelines/en/integrity-authenticity/?cgversion=2023#3> (visited on 4/1/2024).

## **Conclusion**

Lebanon requires a thoughtful initiative directed towards implementing up to date regulations that organize online commercial influence and other social media activity. It may be suggested that the novel legal issue of “simulation rights” clauses in contracts, especially in standard form contracts, merits additional study to suitably govern contractual liberties on how people’s likeness may be used.

As a result, stricter regulations (legal advance), improved algorithms (technical advance), and increased transparency (ethical advance) are necessary to protect internauts and curb the spread of falsehoods. Social media platforms also have a responsibility for their role in reducing misinformation by investing in fact-checking mechanisms, actively overseeing terms of use and promoting credible sources of information. Finally, individuals must be mindful of their own biases and seek out multiple perspectives. They should verify information before internalizing or sharing it and mind the potential influence that one’s actions may have on others.

As a last point, the following recommendations ensue in anticipation of Lebanese legislative initiatives:

1. Incorporating media literacy programs into educational curricula and public awareness campaigns, teaching the necessary tools to discern fact from fiction online such as critical thinking, verifying the sources of information before sharing or believing and fact-checking techniques. These are all crucial in combating misinformation and promoting digital citizenship.
2. Establishing a specialized official oversight entity with suitable competences, which may be the subject of further legal studies.

3. Delaying the opening of accounts on social media platforms at least until the beginning of high school and implement mandatory age verification on the platforms.
4. Restricting smartphone access before high school, with the exception of traditional mobile communication like older cellular phones and sending text messages. By providing a phone or watch that is specialized for communication instead of internet-based apps, elementary and middle school stages may avoid smartphone-based upbringing.
5. Fortifying integration in stable real-world communities, online networks are by no means sufficient.



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