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A Review of Formal and Informal Regulations in the Nordic Influencer Industry

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Abstract

This article provides a systematic review of laws, guidelines, and best practices related to the Nordic influencer industry as of the year 2020. We highlight some nuanced differences or shortfalls across Denmark, Finland, Norway, and Sweden, and give some policy recommendations to national governments and industry in order to maintain a professional Nordic standard. The article identifies a degree of social, cultural, and economic coherence in the Nordic context that allows for the Danish, Finnish, Norwegian, and Swedish influencer industries to be viewed as a collaborative entity. It then reviews the status of income and tax procedures, and the regulation of commercial disclosures for influencers in the Nordic region. It is hoped that this research contributes to strengthening the integrity and rigour of the Nordic influencer industry to serve as a model for other regional networks of influencers.

Keywords: influencer industry, regulation, policy, social media, Nordic media

Introduction

In April 2017, Fyre Festival, a luxury music festival to be held in the Bahamas, was embroiled in an influencer-related scandal. Specifically, the event, organised by Fyre Media's CEO Billy McFarland and rapper Ja Rule, had employed dozens of prominent American influencers to promote tickets costing up to tens of thousands of US Dollars on Instagram (Bluestone, 2017). However, it was exposed as

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fraudulent for failing to provide already paid-for goods and services to attendees, and because contracted influencers had promoted deceptive marketing and did not disclose their paid advertising on social media (Levin, 2017). The Fyre Festival scandal became a critical turning point in the global influencer industry and sparked heated debates about the lack of laws and regulations governing influencers (Higgins, 2019). Following this, several international institutions and organisations pressed for and developed more stringent and standardised rules around influencer advertising (Abidin, 2018: 84), including the European Advertising Standards Alliance (2018) and the International Council for Ad Self-Regulation (2018).

Evidently, issues around influencers' commercial disclosure and tax declaration practices are important, especially as non-disclosure and tax evasion can lead to the loss of credibility among influencers, clients, and in the industry as a whole (Abidin & Ots, 2016). In the wake of recent pressures to professionalise and standardise guidelines and policies in the influencer industry worldwide, this article is the first attempt to consolidate and posit the notion of a Nordic influencer industry. The article contributes to the (slow) growing literature on Nordic influencer cultures focusing on, for instance, Danish online celebrities and word-of-mouth marketing (Sørensen, 2010); Swedish bloggers and their communication practices with readers (Lövheim, 2012); the culture of Norwegian blog celebrities (Bakke, 2017); and Finnish lifestyle vlogging and girl friendships (Reinikainen et al., 2020). Much of the academic literature on influencers originated in studies on microcelebrity, which is a practice and status wherein users employ the affordances of the Internet to fashion themselves into online celebrities through self-branding techniques and by imagining their prospective online audiences as fans (Marwick, 2013; Senft, 2008). More contemporary studies examined influencers who adopt “vocational, sustained, and highly branded” (Abidin, 2018: 71) forms of microcelebrity, able to convert and carry value across their “data streams” (Hearn & Schoenhoff, 2015), and who cultivate followers by narrating their personal lives to engage with audiences and embed sponsored content in advertorials (Abidin, 2015).

In this article, we identify a degree of social, cultural, and economic coherence in the Nordic context that allows for the Danish, Finnish, Norwegian, and Swedish influencer industries to be viewed as a collaborative entity, especially as they are collectively experiencing unprecedented growth in the sector. Drawing from a systematic review of laws, guidelines, and best practices through publicly available policy documents, corporate documents, industry recommendations, and norms in the Nordic languages and English, conducted between June and December 2019, we then posit that the Nordic influencer industry evidences some regional benchmarks in relation to influencer income and taxes, and the regulation of their commercial disclosures. In particular, we highlight some nuanced differences or shortfalls across the Nordic countries, in the hopes that specific national governments and industry will be able to address these gaps, maintain a

professional Nordic standard, and serve as a model for other regional networks of influencer industries.

The Nordic context

The Nordic countries appear to share some values and norms that have shaped the region's influencer industry. Distinctly Nordic aspects of the influencer industry in this part of the world include institutional, systemic, and cultural norms. Personal income and tax information are relatively transparent and accessible by the general public, thus facilitating calls for greater economic transparency in the influencer industry to take root and be effected swiftly. Nordic countries are also among the top ranked countries for gender balance in the workplace and for equal pay, thus allowing for the usually feminised influencer industry (Abidin, 2016; Duffy, 2017) to be taken seriously as a profession. Government-funded research is also paying attention to how influencers impact young people and various social causes. Across the Nordic countries, there are various collaborations and partnerships among influencer agencies (e.g., Troot¹), influencer networks (e.g., United Screens²), public relations firms (e.g., PR Nordic³), and media companies that have been jointly owned and operated, fostering a degree of regional standardisation. The small population size and cultural homophily across Nordic countries enables us to argue for a distinct Nordic culture of influencer industry practices that are not yet as prominent in other regional economies (i.e., the Southeast Asian influencer industry and North American influencer industry). In this section, we aggregate some of the key institutional, cultural, and social practices across four countries to evidence that the influencer industry has grown to be a bona fide economy in the Nordic region.

In Denmark, the 14 largest influencer agencies doubled their financial turnover between 2016 and 2018, reporting over DKK 108 million (The Agency for Culture and Palaces, 2019). In 2016, these 14 influencer agencies had 37 full-time employees, increasing to 76 in 2018 (Agency for Culture and Palaces, 2019). However, a country-specific shortfall is that the Danish market has not been systematically surveyed, and it is presumed that there are large amounts of unreported economic activity and transactions (Roliggard, 2019). In July 2019, one of the most well-known Danish influencers shared a suicide note on Instagram, instigating a huge debate about the ethical responsibility of influencers towards followers and users, but focusing mainly on platforms' responsibility (Gjerding, 2019). NGOs and researchers working with suicide, mental health, and children have reported that such content from influencers can have a negative impact on followers if it is not quickly removed (Roliggard et al., 2019). Subsequently, the Minister of Children and Education encouraged influencers to follow the ethical code of conduct of the mainstream press: to not publicise reports on suicides or suicide attempts unless it is of interest to the public (Dalgas, 2019).

In Finland, the influencer industry has evolved from its original focus on individual platforms such as blogs (see KKV, 2013) and YouTube to a multi-platform,

media-mix approach. According to a survey by the network of marketers in Finland, Marketing Finland (Mainostajien liitto, 2018), over 72 per cent of Finnish advertisers have tried influencer marketing. However, current regulations still specifically govern advertising on some popular platforms (i.e., YouTube) but not others, which surfaces the need for a common set of rules and ethical guidelines. The popular press (e.g., Pallaste, 2017) and publications from industry (e.g., IAB Finland, 2019) have outlined different types of marketing and various contexts. There are regulatory frameworks initiated both by the industry (e.g., Ping Helsinki, 2020) and public institutions (Finnish Competition and Consumer Authority, 2019), promoting transparent communication about commercial cooperation in targeted influencer marketing.

The Norwegian influencer industry has grown rapidly, becoming a significant partner to many large companies and advertisers. The influencer and content-marketing industry now takes up approximately NOK 4 billion of the NOK 20 billion spent domestically on advertising and media marketing (ANFO, 2019). However, the influencer industry is criticised for its lack of structure, non-transparent pricing systems, and limited documentation of its marketing effects. Influencers, influencer networks, advertisers, and social networks have recently adopted a more proactive role, taking it upon themselves to contribute constructively to establishing clear structures, rules, and frameworks (Drange, 2018). In Norwegian media, influencers' societal roles, contributions, and responsibilities have been debated intensely. In particular, influencers are heavily criticised for encouraging beauty pressure and body dissatisfaction among young girls (Forbrukertilsynet, 2018)

Finally, the Swedish media industry is increasingly incorporating influencer marketing as a staple in their advertising repertoire, with the annual domestic spending on Internet advertising taking up 12.5 per cent of the SEK 81,963 million budget in 2018 (IRM, 2018). Two surveys in 2019 found that Swedish influencers had higher average engagement rates than their Nordic neighbours (Relatable, 2019) and that the average minimal influencer income in Sweden is SEK 1,500–100,000 (Tankovska, 2019). In response, Stockholm-based streaming platform Starflow is developing an influencer-specific cryptocurrency known as Starcoin to enable influencers to “safeguard their digital identities” (Bitcoin PR Buzz, 2018), although little is known about the reliability and governance of these emergent initiatives. Swedish influencers have also reportedly contributed to the rise in veganism (Brodala, 2018), environmental sustainability (Joosse & Brydges, 2018), and fashion recycling (Köhler, 2018). But these small “wins” may distract from the larger need to interrogate the damage of mass consumption encouraged by influencers in the first place.

Across the board, the Nordic countries are similarly experiencing an unprecedented growth in influencer marketing and integrating into their advertising repertoire. Influencers are also generating impact in a range of social issues, from mental health to environmentalism. However, given the quick growth, each country market still has an institutional shortfall to address: Denmark and Norway

lack a rigorous system for accounting for commercial activity and pricing systems; Finland and Norway need to further standardise their rules and ethics across on-line advertising platforms and genres; and Sweden requires more understanding of and regulatory guidance for its emergent influencer currency models. In the next section, we examine more deeply the existing income and tax models in the Nordic influencer industry to identify potential benchmarks for the region based on the best practices across the country markets.

Nordic influencer income and taxes

Drawing on guidelines and regulations for income tax declarations of each country market, in this section we posit four benchmarks for the Nordic influencer industry based on the highest standing currently available in the region.

First, the Nordic threshold for being considered a “career” influencer is the amount of monetary income earned. Finland has a particularly good model for working through the ambiguous dichotomy between hobbyist and career influencers. Many self-identified hobbyist influencers in Finland usually do not engage in tax declarations. However, if the monetary compensation from their social media activity becomes substantial, they will be classified as self-employed entrepreneurs. At this point, Finnish influencers may opt for the freelancer-verokortti [freelancer’s tax card], which allows some flexibility in terms of employment relationships and earnings. They can also adapt as kevytyrittäjä [light entrepreneurs] (see Vero, 2019) through specific services like Ukko, which allows individuals to outsource their paperwork. Similarly, the Norwegian Tax Administration deems that influencers are conducting commercial activity if it “is carried on at own expense and risk”, “is expected to have a certain scope and duration”, and “is likely to generate a profit” (Skatteetaten, 2019: para. 3). In Sweden, the guidelines are more clear, with the Swedish Tax Agency announcing in April 2019 that all influencers earning more than SEK 19,247 in 2018 must file income tax declarations (Bloomberg Tax, 2019). Foreign influencers who are contracted by Swedish companies must also pay special income taxes (Boostified, 2019). Currently, Denmark has no income thresholds, but Danish bloggers with a yearly income of DKK 150,000 or below are not considered to be independent business owners, but freelancers, according to a 2016 ruling (Danish Customs and Tax Administration, 2016).

Second, tax laws for Nordic influencers are still under development, but currently require regulations and definitions to be presented in clear, non-expert formats that are accessible to the general public. The Norwegian Tax Administration has well-defined, adjusted, and clearly presented rules and regulations for the taxation of “blogging and social media”, which appear separately on their website (Skatteetaten, 2019). However, there is a persistent grey zone around the new and very young hobbyist influencers in Norway who are often unfamiliar with the rules and regulations of taxation. For example, they might not be aware that they have progressed in their hobbies and become professional influencers,

finding it difficult to discern whether a gift has been given privately or professionally, and they might find it difficult to regard unwanted gifts as a taxable income (Ekeberg, 2019). Likewise, Danish influencers are often described as working in a grey area, where it can be difficult to understand tax rules (Vestergaard, 2019a). In March 2019, the former Danish Minister for Taxation asked his officials to make the tax rules clearer for influencers (Vestergaard, 2019b), although as of late 2019, this has not yet been implemented. This issue of accessibility must be addressed by all country markets.

Third, Nordic influencers must disclose non-monetary gifts in their tax claim. In all four Nordic countries studied, gifts or goods of value that influencers received – whether solicited or not – must be declared as income (Skatteetaten, 2019; Danish Customs and Tax Administration, 2019). Under Danish tax law, the basic principle is that citizens must pay taxes every time they have an “economic advantage”, regardless of whether this is in the form of a fee, gifts, or goods (Vestergaard, 2019a). In Sweden, even if influencers have chosen not to promote received goods on social media, or give away products to followers, the act of having received something must be declared as income (Boostified, 2019) unless the goods are returned to sponsors (Bloomberg Tax, 2019).

Fourth, Nordic industry institutions are supplementing government provisions by acting as intermediaries to publicise, formalise, and resolve income issues. Norwegian professional influencers are commonly managed by specialist organisations or networks, which consequently manage their tax returns and ensure that taxes are paid correctly. Influencers can also claim a tax deduction on necessary items such as Internet connections, smartphones, and photographic equipment (Skatteetaten, 2019). In Sweden, agencies and advertising firms brokering engagements between influencers and brands have compiled accessible “explainers” for both parties to understand taxation rules (e.g., Boostified, 2019). In Finland, although it has been estimated that, as of 2019, there are only 50–100 influencers who make a decent-to-substantial living through their social media work (Manifesto, 2019), the total number of those who obtain some revenue from sponsorship deals, ads, or corporate gifts is likely to be in the thousands. In the absence of any formal industry support, influencer income is frequently discussed on Finnish job-seeking portals (Komulainen, 2018) and in traditional journalism (Tiainen, 2019). In Denmark, dedicated influencer agencies assist influencers with their taxes, but are usually not contractually required to do so. Lawyers and accountants also offer (paid) services to influencers and their commercial partners (e.g., Jacobsen, 2017).

Across the board, some Nordic countries already have the skeletal structures in place for moderating the hobbyist-career influencer threshold, presenting tax laws in clear language to the public, stipulating that non-monetary gifts providing economic advantage are considered income, and collaborating with willing industry partners to communicate guidelines to influencers and clients. Alongside improving the definitional boundaries of these regulations, we suggest that there should also be an effective system for enforcing these rules and penalising flouters.

We encourage each national government to ensure that these systems are routinely updated for clarity and to complement the vernacular activity happening on the ground, especially in light of the spike of newer and younger influencer aspirants. As larger numbers of teenagers and young people dabble in influencer commerce, the distinction between hobbyist and career influencers may need to be stricter, while communication of laws ought to be more age-accessible. We recommend that authorities also consider that clients may disadvantage influencers by compensating them with more gifts rather than monetary payments, and if such strategies take place at scale, industry partners are encouraged step in to regulate the economy and oversee the welfare of their (increasingly young) influencers as well.

Nordic regulation of influencer disclosures

While income and tax regulations may seem more stringent and consistent, the ever-evolving and emergent social media platforms and formats make it much more difficult to police the presentation of influencers' advertising disclosures. As such, here we consider the Nordic specificities around laws, guidelines, and best practices pertaining to the disclosure of sponsored content in the influencer industry, paying special attention to the precise formatting required of influencers' sponsored posts.

First, Nordic influencers are required by law to mark all content with commercial intent as advertisements, including "hidden" or "subliminal" advertising. In Sweden, disclosure regulations were first released in the early-2010s (Sveriges Annonser, 2015) with vernacular advertising disclosure strategies recommended by industry organisations such as Influencers of Sweden (Hörnfeldt, 2016). But from the late-2010s, new stricter laws were introduced across the Nordic calling upon influencers to disclose when the content they post online has commercial intent (e.g., Forbrukertilsynet, 2017). This regulation extends to hidden or subliminal advertising where the commercial intent may not be obvious to everyday viewers (Forbrugerombudsmanden, 2017; Konsumentverket, 2019a). Advertisers on social media have also been tasked with meeting the guidelines for traditional media such as television and magazines (Konsumentverket, 2019a).

Second, Nordic influencers must abide by specific presentation and aesthetic guidelines when signposting sponsored content. In general, influencers must unambiguously and clearly label their sponsored content, paying attention to large fonts and placement in prominent positions – such as being superimposed onto the image or video or in the beginning of textual captions – that are recognisable by viewers (Forbrukertilsynet, 2019; Medietilsynet, 2019). For YouTube and video content, disclosures must be placed at the start of the video (Forbrukertilsynet, 2019; Konsumentverket, 2019a; Medietilsynet, 2019) in clear language. It is insufficient to merely verbally mention in the voiceover that the video is sponsored, add tags, or post ambiguous abbreviations like "ad" in the captions (Finnish Competition and Consumer Authority, 2019; Konsumentverket, 2019a).

It is also insufficient for influencers to use the platform's in-app or native labelling tool or sticker, such as Instagram's "Paid promotion" tag or YouTube's "Contains sponsored content" button (Finnish Competition and Consumer Authority, 2019).

Third, a network of Nordic stakeholders – influencers, advertisers, agencies, and ombudsmen – share the responsibility for keeping best practices in the influencer industry. In addition to the consumer ombudsman, tax authorities, and advertising watchdogs cited in this article, Nordic influencers are advised by industry to partner with advertising clients (Haugseth, 2018; Konsumentverket, 2019a) and their agencies to comply with regulations. Some Nordic countries have specific ombudsmen, such as the Finnish Consumer Ombudsman (Finnish Competition and Consumer Authority, 2019), the Norwegian Consumer Authority (Haugseth, 2018), the Swedish Consumer Agency (Konsumentverket, 2019a), and the Swedish Advertiser's Committee for Public Relations (Sveriges Annonörer, 2015). In addition, there are also various statutes like the Norwegian Marketing Control Act (Haugseth, 2018) and official guiding sheets (Konsumentverket, 2019b) prepared for influencers, alongside intermediaries who can broker interpretations and company-influencer engagements to ensure compliance.

Fourth, some influencers and companies are still skirting the Nordic regulations, as current ones are not yet strictly enforced among influencers and clients. Despite the best efforts of state boards, industry ombudsmen, and influencers themselves, some influencers and clients still flout the rules. For instance, in August 2019, four Danish influencers were reported to the police for using "unclear wording" such as "ad" or "spons" instead of the Danish words "reklame" or "annonce", for tagging commercial partners without explicitly stating the commercial activity, and for distributing content from one social media platform to another without disclosing the commercial activity (Forbrugerombudsmanden, 2019). In Sweden, some rule-breaking influencers have been penalised, while others have slipped under the radar (e.g., Garson, 2019). In Norway, some advertisers have sent out free products while closing their eyes and hoping that influencers will promote their wares without a formal agreement (Haugseth 2018). While there are some regulations and guidelines in place, there is not yet an effective way of ensuring their compliance.

Given that many Nordic influencers share followers and cross-advertise for clients in the region, we recommend the institution of a Nordic-wide system for enforcing rules and reporting influencers and clients who flout them. It is important to hold clients partly responsible and regulate the advertising demands they place on influencers, in order to stop "backdoor" and "under the table" innovations before they start. In the long run, these collective initiatives will raise the overall ethical and professional standard of the Nordic influencer industry and encourage international clients and investors to tap into this ethical and rigorous market.

Conclusion

Considering the global interest in regulation of influencer taxes and ad disclosures, this article provides a review of the current rules, regulations, and best practices promoted by governments, advertising boards, and influencer agencies in the Nordic region, and identifies areas with shortfalls or points for improvement. Compared to other parts of the world, these movements were perhaps more smoothly put in place considering the shared Nordic values and norms around income and tax transparency, gender parity in the workplace, and intra-Nordic business collaborations. Given the culture of institutional transparency in Nordic corporate cultures, many of the recommendations focus on formally instituting standards of integrity among influencers and advertisers.

The current guidelines in the Nordic influencer industry model focus on clear, legible, and accessible distinctions for several definitions: cash payments or gift incentives; hobbyist beginnings or professional careers; appearances of advertising or intentions of advertising; and procedural understanding of regulations or practical enactment of regulations. Apart from government laws and ombudsman regulations, several industry entities have taken the initiative to further standardise best practices in the Nordic influencer industry. Still, despite some regularity and agreement across the Nordic statutes, guidelines, and regulations, we have highlighted in the sections above the shortfalls specific to country markets and the Nordic region as a whole. Having reviewed the best practices in the region, we have also suggested that there should be an effective Nordic-wide system for standardising regulations, enforcing rules, and penalising flouters. We recommend that each of the Nordic governments share a stake in ensuring that their national systems are routinely reviewed to maintain the Nordic standard of influencer commerce, and updated to keep abreast of the fast-changing developments among young influencers and followers in the industry.

However, we also note that to avoid over-generalising and erasing the rich cultural specificities of the country markets under the Nordic umbrella, further research should be attentive to the current sociocultural issues that have shaped each market. For instance, Danish influencer agencies are concerned about the agency of influencers as “independent media houses” (Richardt, 2019). Thus, while they do provide information about the rules of disclosure, commerce, and tax, they are unable to strictly enforce any rules. The most well known Finnish influencers are under 25 – or even teenagers – with even younger followers. As such, Finnish influencer networks have focused their energies on educational campaigns about the spread of disinformation and manipulation on social media (Koskinen, 2018). The Norwegian grey zones of interpretation and enforcement have reduced the efficacy of various initiatives. In response, the Norwegian Media Businesses’ Association and the interest organisation for Norwegian Advertisers known as ANFO have established trust and credibility as key concepts for the industry (Drange, 2018). In Sweden, influencer grassroots groups are keen to peer

review and peer certify each other. As such, ground-up initiatives have included events and pedagogical workshops, member subscriptions, consultancy services, and a kvalitetsstempel [stamp of quality] to certify that an influencer's channel has been endorsed by the network (Influencers of Sweden, 2019). We hope that this Review of the Nordic Influencer Industry will serve as a springboard for further research into the institutional, cultural, and social lives of this blooming economy.

Notes

1. <https://trootgroup.com>
2. <https://unitedscreens.com>
3. <https://prnordic.com>

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