



The Use of Children as Influencers and the Harmful Effects on their Health and Rights as Human Beings

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Abstract

With the developments of recent years, "influencers" have appeared in social media. Influencers usually specialize in a specific field or industry, such as beauty, fashion, fitness, travel or food, and are known for their expertise, creativity and originality. They create and share content on social media platforms like Instagram, YouTube, TikTok, using their platforms to build a network of loyal followers and establish themselves as thought leaders in their respective fields. Influencers partner with brands to promote products or services to their followers through sponsored posts or collaborations. These partnerships can be profitable for both the influencer and the brand as they can increase brand awareness, drive sales and build brand loyalty, who are in reality celebrities or not who market various products, services and in this way they influence people. Every day more and more influencers have been added in our country, as well as in other countries, and children are included in their work. It has already become normal or tradition for an influential woman to open an "account" for the newly born child, publish photos/videos of the child and gradually start advertising various baby products, influencing the masses. The practice of "kidfluencing" raises ethical concerns about the commodification of childhood, to be seen as products, and for their rights. This is the object of treatment in this paper. Through which it is intended to analyze the rights that are violated to the child and the harmful effects for the child from the "kidfluencing" practice. This topic critically examines the moral dilemmas and challenges in regulating child abuse practices from the perspective of ethics, child welfare and legal protection of the child's best interests, analyzing the implications of the commodification of childhood and the potential harm it can cause.

Keywords: influencer, children, law, ethics, damages, etc

1. Introduction

With the development and tremendous growth of technology and the Internet, social media have also progressed, the growth of which has created a new phenomenon that is influencers. An influencer is someone who influences or changes the way other people behave.

It is often a person that a company pays to show and describe products on their social media platforms, with the intention of encouraging others to buy them. With their huge following on social media platforms like Tiktok, Instagram and Youtube, the people behind the pages have managed to create a new status of internet fame.

MarketingHub's 2023 Influencer Benchmark Report shows that the influencer marketing industry is expected to grow to a value of approximately \$21.1 billion by 2023, with over 83% of the survey report participation believing that influencer marketing is an effective form of advertising and marketing. You don't need to have a massive following to start making money creating social media content; it's something anyone can try with a smartphone in hand. In this profitable

business, there are many opportunities to earn money. Different rates and opportunities are open depending on follow-up and negotiation skills. Brand deals can lead to huge payouts and influencers can post sponsored content to generate income. Influencers can also earn money through affiliate marketing – discount codes and links that give influencers a percentage of the sales they contribute to. Influencers can also monetize their content and receive money through ads and programs already integrated into the app, earning money for the number of clicks they receive.¹

Following this trajectory, family influencers have also begun to gain significant popularity and following. They usually upload content of their entire family – from singing videos to new things from their daily lives. From this, children have also started to become influencers from an early age, often referred to as kidfluencers. As the popularity of influencers continues to grow, companies are now starting to target parents who want to gain fame for their children. It is worth noting that for this essay, influence refers to influencer children who are 13 years of age or younger.²

This age limit is important because it is the age at which many social media platforms, including Facebook,³ Instagram⁴ and Tiktok,⁵ prohibit users from creating an account without parental consent. In other words, minors are not legally allowed to use these platforms on their own, which means that any child on these platforms must have the consent and active involvement of their parents or guardians. On these sites, you can often find their bio stating that their social media page is "run by their parents". Therefore, the responsibility for protecting the rights and well-being of child influencers falls on the child and their parents and any other parties involved in the creation and distribution of their content. These children should be helped by their parents to use social media applications; therefore, they control what is loaded.⁶

In the practice of the countries of law and in the legislations, they have been recognized and protected as child actors and models over the years. But their appearance and frenzied exposure on social networks has not yet been recognized as a form of acting or employment, which leaves this form of entertainers without specific job protection (except for some countries like France, or states in the USA). Therefore, children can be used for commercial purposes and benefits. Commodification is when something is treated or regarded as a product that can be used or sold. This can be exploitative and potentially damaging to children's well-being, exposing them to the pressures and stresses of the public eye at a young age. The use of children in advertising and marketing raises ethical concerns about informed consent, as they are too young to understand and give it meaningfully. Children may not fully understand the implications of their participation in sponsored content.⁷

Parents, who often act as their children's managers and decision makers, may have competing interests—financial gain versus their children's well-being—which may cloud their judgment about their children's involvement in these activities, believing that their actions are best for their child's life. The kidfluencers industry continues to grow, with more and more kids being put in the spotlight. And in this new situation for both people and legislative regulators there is a lack of clear guidelines and regulations around the use of children in social media marketing, leaving it in an actual free-roaming terrain.⁸

2. Methodology

The methodology chosen for this paper is guided by argumentation analysis rather than a specific method, although it draws heavy inspiration from one. The paper explores various arguments both in favor and against the use of children by parents as influencers, using the principles of critical thinking and reasoning.

The aim of this paper is to provide a comprehensive approach and assessment of the ethical considerations surrounding children by critically examining the available evidence and assessing the potential implications. In terms of a structured method, the paper follows a classic format, which includes presenting and explaining the main argument,

¹ Sydney Bradley. *How much money Instagram influencers make*. Business Insider, 2022-12-03. <https://www.businessinsider.com/how-much-money-instagram-influencers-earn-examples2021-6?r=US&IR=T>

² O Maheshwari, 'Online and Earnings'

³ Facebook Help Center. "Managing Your Account."

⁴ Instagram Help Center. "Parent's Guide to Instagram."

⁵ TikTok Safety Center. "A Guide for Guardians." <https://www.tiktok.com/safety/en/guardiansguide/>

⁶ Sapna Maheshwari, 'Online and Earnings Thousands, at Age 4: Meet the Kidfluencers', *The New York Times*, 01-03-2019, <https://www.nytimes.com/2019/03/01/business/media/socialmedia-influencers-kids.html>

⁷ Marina Masterson, *When Play Becomes Work: Child Labor Laws in the Era of 'Kidfluencers'*. *University of Pennsylvania Law Review*, Forthcoming, May 11, 2020, p.579

⁸ Amber Edney. "'I Don't Work for Free': The Unpaid Labor of Child Social Media Stars." *University of Florida Journal of Law and Public Policy*, vol. 32, no. 3, 2022, p.571

addressing opposing viewpoints, and providing supporting evidence.

Critical thinking plays a crucial role in this analysis by providing the tools needed to analyze texts, question assumptions, and seek alternative explanations for evidence. In critical thinking, an argument goes beyond mere disagreement; he seeks to convince others that one point of view is preferable to another. To build a strong argument, reasons are essential, and these reasons, in turn, must be supported by additional arguments. Ultimately, an argument must lead to a conclusion, leading the reader to accept a particular point of view and understand why it is preferable.

2.1 The commodification of childhood

In the last two decades, the children's market has expanded dramatically, both in direct spending by children and in their influence on parents' purchases. This in turn has led to increased attention to children by marketers and to a process of commodification both of childhood, as a cultural concept of sale, and of children themselves, who have become the object of intense marketing activity.

In the last ten years, the academic literature has taken into account the increasing commercial influences on childhood, with contributions such as "**Kinderculture**" e Joe Kincheloe, Shirley Steinberg: "**The Corporate Construction of Childhood**", Stephen Kline's *Out of the Garden*, Ellen Seiter's, **The Children's Culture Reader** i Henry Jenkins, Daniel Cook **The Commodification of Childhood**.⁹ Some of these texts explicitly address the issue of the commodification of childhood, although the literature has not yet settled on a precise definition, and meanings and uses vary widely. Among marketers, the term commodification means a process in which the value of the brand is disappearing and the product, increasingly unable to command a price premium, is degraded to the level of an unbranded commodity. In the academic literature, the term is sometimes used almost synonymously with commercialization, as in the notion that children are increasingly involved in consumer or commercial culture.

According to this notion, the commodification of childhood refers to a process in which the cultural category of childhood is itself produced in order to be sold. And while the notion that a cultural concept can be a product may involve an intellectual stretch, I would argue that this formulation is a profound illumination of the processes now at work in the field of marketing and advertising to children—what industry insiders call it "children's space".¹⁰ These industry professionals have become increasingly influential in the social, cultural and economic construction of childhood. They influence children's sense of identity and self, as well as values, behaviours, relationships with others and daily activities. They help shape the normative vision of childhood held by both children and adults. In this sense, they are creating, transforming, and packaging childhood as a productive cultural concept that they then sell to the companies that make the actual products that children buy.

In his 2004 book *The Commodification of Childhood*, Thomas Daniel Cook examines how the market culture surrounding childhood is a remarkable achievement of twentieth-century capitalism. Over the past century, the children's market has expanded to include goods, spaces and media, surpassing the opening of a market like no other. What distinguishes the children's market from others is that childhood is a unique and generative cultural place. Childhood generates meanings and bodies that grow, interact, and transform to the extent that they create new childhoods, new meanings, and often new markets: exchange value moves and changes beyond any group or generation in the process.¹¹

Josh Golin, executive director of the Campaign for a Commercial-Free Childhood, says companies choose to have children as their influencers, showing a clear sign of their target — other children. This is prevalent on websites such as YouTube, where a "don't tell, don't ask" attitude is used, says Golin - websites benefit enormously from hosting content

⁹Shirley R. Steinberg and Joe L. Kincheloe, *Kinderculture: The Corporate Construction of Childhood* (Boulder: Westview, 1997); Stephen Kline, *Out of the Garden: Toys and Children's Culture in the Age of TV Marketing* (London: Verso, 1993); Ellen Seiter, *Sold Separately: Parents & Children in Consumer Culture* (New Brunswick: Rutgers University Press, 1993); Henry A. Giroux, *Channel Surfing: Racism, the Media, and the Destruction of Today's Youth* (New York: St. Martin's Griffin, 1997); Elizabeth Chin, *Purchasing Power: Black Kids and American Consumer Culture* (Minneapolis: University of Minnesota Press, 2000); Henry Jenkins, *The Children's Culture Reader* (New York: New York University Press, 1998); and Daniel Cook, *The Commodification of Childhood: Personhood, the Children's Wear Industry and the Rise of the Child-Consumer, 1917–1962* (Durham: Duke University Press, 2004). For a journalistic account of the commercialization among teens, see Alissa Quart, *Branded: The Buying and Selling of Teenagers* (New York: Perseus, 2003)

¹⁰ Labor power is peculiar for other reasons as well, such as the fact that it is only a capacity to work. Once the labor process commences, labor itself is the relevant input. See Karl Marx, *Capital*, 3 vols., trans. Ben Fowkes (Harmondsworth: Penguin, 1976).

¹¹ Daniel Thomas Cook, *The commodification of childhood: the children's clothing industry and the rise of the child consumer*, Duke University Press, Durham, 2004, p.1

that is deliberately designed to appeal to children.¹²

The commodification of childhood refers to treating children as consumers and marketing to them as such, aiming to generate profits for businesses.

This practice includes creating and selling products and services designed specifically for children, and using advertising and other marketing techniques to persuade children to want to buy these products instead of targeting adults. To better understand the relationship between childhood and consumer culture, it can be viewed from a structural perspective, where businesses, advertising and other adult institutions are seen as invading childhood and exploiting children through promotions, advertising and media. This emphasizes children's agency and active participation in consumer culture, seeing it as empowering. Children make meanings out of toys not foreseen by their adult designers and are creative in their appropriation of consumer goods and media. The news media tends to focus on child exploitation and marketers often emphasize their empowerment, leaving parents somewhere in between.¹³

It is clearly understood that companies that produce products for children have a great interest in marketing to children. In a study conducted on videos shared on YouTube by children that had food advertisements in their content, a sample of 418 YouTube videos that met the criterion of showing food and/or drink was practically taken. Food and/or drinks appeared in those videos 291 times. YouTube videos of child influencers were collectively viewed >48 billion times. Most foods and/or beverages were unhealthy branded items (n = 263; 90.34%; eg McDonald's). Child influencers create millions of impressions for unhealthy food and drink brands through product placement.¹⁴

Similarly, the researcher Smit et al. (2019) conducted a survey of 453 children aged 8 to 12 years, in which they studied the frequency of consumption of YouTuber content and the exposure given to unhealthy foods and drinks by these influencers. Their results showed increased uptake of these products due to the influence of YouTubers.¹⁵

*The commodification of childhood has been a topic of debate and concern among parents, educators and child advocates, who argue that it can negatively impact children's development and well-being. Critics say it can encourage materialistic values and lead to a focus on consumption rather than more meaningful experiences and relationships. Alongside the commodification of childhood through the marketing of products to children, there is also a worrying tendency for children themselves to be treated as products. Parents put their children in front of the camera, posting their photos online, earning money and fame from them. Those with a million followers or more can earn over \$10,000 per sponsored post.*¹⁶

Children who have become social media influencers are often used to market products to their peers and followers. This raises serious ethical questions about the use of children in marketing and the extent to which their interests and well-being are prioritized.¹⁷ It also reinforces the idea that children are objects to be used for profit rather than individuals with agency and autonomy. In many cases, children's value as influencers is directly tied to their ability to generate revenue for the brands they promote.

They can be trained in creating engaging content, attracting followers and maximizing profits through sponsorships and collaborations.¹⁸

2.2 The perspective of Kidfluencing as a form of child labor

In today's digital age it is becoming increasingly difficult to define what exactly counts as child labor as it has expanded beyond traditional employment sectors. Times have changed, while child labor used to be hard physical work, now it can be as trivial as making a short 15-second video and uploading it to social media. Especially in the discussion about young children, some parents and guardians argue that they are the ones doing the work instead of their children which would absolve them from the perception of being involved in child labour.¹⁹ While this type of work may not be harmful in the traditional sense and may even have been fun to begin with, there is a fine line between what constitutes beneficial labor

12 Sapna Maheshwari, 'Online and Earnings Thousands, at Age 4: Meet the Kidfluencers', *The New York Times*, 01-03-2019, <https://www.nytimes.com/2019/03/01/business/media/socialmedia-influencers-kids.html>

13 Cook, *The commodification of childhood*, p.2

14 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7786816/>

15 Smit, C.R. Buijs, L. van Wounderberg, T.J, Bevelander, K.E, Buijzen, M., 2019 "The impact of social media influencers on children's dietary behaviors."

16 Livingstone & Rahali, *Supplementary written evidence submitted*, p.3-5

17 CBS News, *Kid Influencers*

18 Maheshwari, 'Online and Earnings'

19 Morris, „Kidfluencers and Conundrums“.

and exploitative child labor. The question of what exactly constitutes child labor is critical and must be answered in order to further understand and discuss this topic. Social media platforms, such as YouTube or TikTok, offer large audiences and the potential for significant profits, but formal child protection guidelines are lacking. The issue of whether a child's activities count as child labor is further complicated by the digital context of their work and the involvement of parents or guardians who often manage their online presence.

Children engage in various activities, including opening or unwrapping toys, clothes, various gifts, consuming food, performing in videos and promoting brands through sponsored content. Their online presence can generate significant income, raising ethical and legal concerns about the exploitation of child labor in the digital age.

The debate revolves around whether young children's activities should be classified as work or play. Parents often argue that their children simply engage in play and enjoy participating in social media production. Meanwhile, these same parents are the ones who sign contracts with the various brands that have a direct relationship with the child and it is the children who will market the products of these brands.

2.3 *Legal protection of children's rights against the commodification of their work*

In such a situation where children are massively used by their parents to market various products or services against benefits, it is the state and the relevant regulatory and legal bodies that must intervene to regulate and standardize this situation legally by deciding on priority the highest interest of the child and his well-being as a child and a human being.

Undoubtedly, the main regulators in this regard are international organizations such as the European Union with its regulations and directives and the United Nations Convention. Let's see how each of them handles this situation.

2.3.1 *Kidfluency Protection under EU Directives*

Children's rights, online distribution and children's influence - were the focus of a panel discussion at the conference "**Conscientious Content: Supporting Online Influencers and Content Creators**", which was organized by the Belgian government as an event of the current Council of the EU, held on February 27, 2024 in Brussels.²⁰ Against the background of the growing importance of social media and the accompanying influence that influencers also have on children and young people, the Belgian government invited government representatives of European countries, influencers, civil society organizations and services to exchange views. Together, they discussed whether and how potential rules of conduct could help influencers use their influence responsibly.

In the panel "**Ethics of children, mothers/fathers, sharing**", it was emphasized, also based on the experience in the project "**Protection of children and children's rights in the digital world**", that an informed and free consent of the child is essential for whether and in what context child-related content can be published online. The possibility of informed consent, especially for young children, and the free decision of children who are dependent on their parents present special challenges. The possibility of deleting published content was also discussed. One of the difficulties here is that providers generally do not have any organized procedures for this and effective processes for implementing the right to be forgotten are not yet sufficiently established. The out-of-court dispute settlement mechanism under Article 21 DSA is also intended to provide a solution in such cases. This means that users can contact a duly certified body to seek clarification on decisions made by providers with which they disagree. However, it makes sense to check in advance what content and data is published online and use this opportunity to minimize data, e.g. using images that do not depict a child's face. Further information on the conscious depiction of children online can also be found on this page of CRIN, the International Children's Rights Network.²¹

Supporting children to be safe, protected and empowered when they go online is a cornerstone of EU digital policies, most clearly expressed in the Better Internet for Kids (BIK+) strategy adopted by the Commission in May 2022. Important legal and regulatory developments governing social media and online markets include the Digital Services Act, the revised Audiovisual Media Services Directive and the General Data Protection Regulation. The Unfair Commercial Practices Directive is also relevant to areas such as social media marketing and influencer activities. Legislative proposals under consideration including the Artificial Intelligence Act and the Regulation establishing rules to prevent and combat child sexual abuse also propose solutions with far-reaching consequences for children's online safety. Internationally, an important trend in legislation and policy development has been an emphasis on children's rights

²⁰ <https://childrens-rights.digital/fokus/index.cfm/key.3898>

²¹ <https://childrens-rights.digital/fokus/index.cfm/key.3898>

in relation to the digital environment, reinforced by increased protection of children's privacy and the obligations of digital service providers towards safety by design. and age-appropriate design. Alongside legal and policy frameworks, supporting children's well-being online is recognized as a multi-stakeholder activity reflected in many different programs and initiatives carried out at national and EU level to raise awareness, reduce the possibility for children to face risks and to support children if they become victims of online harm.²²

2.3.2 Protection of children from the United Nations Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (CRC) is an international human rights treaty that defines the civil, political, economic, social and cultural rights of children.

The UNCRC recognizes that children have the right to special care and assistance and that their best interests must be the primary consideration in all actions and decisions affecting them. While many articles may be applied differently, this essay will focus primarily on three articles from the Convention, briefly mentioning a few other important ones. Article 3 of the CRC states that in all actions related to children, the best interest of the child must be a primary consideration. Any decision, policy or practice affecting children must prioritize their well-being, safety and development over other interests, such as commercial ones. or marketing objectives. Therefore, when considering the impact of children's fluency practices on children, it is essential to assess whether they promote or undermine the child's best interests. Article 17 of the CRC recognizes the right of children to access information from various sources and to be protected from harmful information and materials.

They have the right to make informed choices. This means that children have the right to receive information appropriate to their age and development, which does not jeopardize their well-being or dignity.

It also means that children must be protected from manipulative or misleading advertising that may exploit their vulnerability, inexperience or credibility. Any regulation of children's privacy practices must therefore consider balancing children's right to access information with their right to be protected from harm. Article 32 of the CRC recognizes the right of children to be protected from economic exploitation and hazardous work that hinders their education or harms their health or development. This means that children have the right to be free from work or exploitation that may endanger their physical, mental or social well-being. In the context of kidfluencing, this means that children should not be used as commodities or marketing tools and that their participation in any advertising or promotional activity should not interfere with their education, play or family life. Therefore, any regulation of children's fluency practices must ensure that children's rights to education, leisure and development are respected and promoted.

Other articles of the CRC that may be relevant to child advocacy practices include article 12, which recognizes the right of children to express their views and participate in decisions that affect them, and article 13, which recognizes children's right to freedom of expression. These articles mean that children should have a voice in any decision or policy that affects them and that their opinions and ideas should be respected and taken into account. However, they also mean that children's expression must be protected from manipulation, censorship or coercion and must be supported to develop critical thinking, ethical judgment and media literacy skills.

Practically, in the international arena, there is no regulation that defines some standards regarding the work of children as influencers. But some states have begun to move recently by passing laws that prohibit or regulate child labor. Thus in May 2024 in the United Kingdom it was decided that:

"The onus should rest on the brands promoting the product – so if [a brand] wants a 12-16 year old to promote their products, prior parental approval should be sought." (Caroline Andre-Hesse Vice-Chair of the IBA Legal Commission for Employment and Industrial Relations.)²³

In 2020, France introduced a law that should protect children from child labor regulation. According to the claims, lovers and companies must be allowed by the authors of the commercial video show that has a child under 16 years of age for video sharing platforms where the duration of the footage or the revenue earned from the audience of the videos that exceed their limits. Failure to do so can lead to a fine of up to €75,000 and five years in prison. Under French law, hours that children under 16 are eligible and any earnings must be kept in an account accessible when they turn 16. Parents will also receive information on their children's rights and other consequences of posting their images and videos online. "According to the new French regulation, child influencers must have the right to protect children.

A new Illinois law is now the first in the US designed to protect the earnings of children who are social media

²² [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/733109/IPOL_STU\(2023\)733109\(SUM01\)_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/733109/IPOL_STU(2023)733109(SUM01)_EN.pdf)

²³ <https://www.ibanet.org/Social-media-Rise-of-kidfluencers-pushes-legislators-to-engage-with-childrens-rights-online>

influencers or who appear on their parents' social media content. Starting July 1, 2024, children under 16 who are social media influencers or who appear on their parents' content will be entitled to a certain percentage of the earnings from that content, based on how much they appear. This money must be placed in a trust until the child turns 18. Otherwise, according to the law, they have the right to sue. The legislation was first championed by Shreya Nallamothu, who at age 15 found herself concerned about protecting children who found online stardom, the Associated Press reported. She contacted State Senator David Koehler with her idea, and he later proposed legislation.²⁴

In Albania, there is still no initiative undertaken to regulate the work of influencers or kid influencers. I think it is the moment that the competent bodies for the protection of the rights of the child, labor and consumer protection should intervene to put an end to parents massively exploiting their children for personal gain.

3. Conclusions and Recommendations

Kidfluencing raises complex ethical, social and legal issues that require careful consideration and work. The commercialization of childhood has resulted in children being treated as consumers and also as products themselves, with potentially harmful consequences for their well-being, autonomy and dignity.

Using children as influencers has added a new dimension and difficulty for families, consumers, the market and the children themselves. There are also counterarguments to consider. It has been argued that kidfluencing can provide positive role models for children and strengthen their empowerment. Making more regulations that affect children may infringe on free speech rights and perhaps the current regulations are adequate and enforceable as they are. These counterarguments highlight the need for a nuanced approach that balances competing interests and values and takes into account the evolving nature of digital media and marketing practices.

Under the argumentation of how essential it is to always respect the children's consent and their protection, the need for intervention and regulation on the part of the legislator emerges.

Faced with such a situation, I think that the close circle, i.e. the family, parents and more widely, the government should take appropriate measures to regulate the marketing, the use of children without criteria, as well as the advertising of unhealthy foods/drinks for children.

- From a government perspective, governments face many challenges when developing programs to protect children from digital advertising and social media platforms. An obvious challenge is how to reduce risks without reducing children's benefits, while preserving core values such as freedom of speech and the right to data privacy for all Internet users, including children.
- Policy makers and institutions: Policy makers in cooperation with technology companies should adopt stricter privacy rules for all users, especially children, regarding the collection of data from mobile devices, and other Internet-connected devices and devices dressed.
- Parents: providing guidance to parents about limiting children's media exposure time and engaging in healthy discussions about media messages. However, parental supervision can only be effective in teaching children to think critically about digital media, while restrictions should be the primary task of technology developers and policy makers, who must enable a digital environment in which which all demographics can access content that offers prospects rather than profits.

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²⁴ <https://www.businessinsider.com/child-influencers-now-entitled-to-their-earnings-new-illinois-law-2023-8#:~:text=A%20new%20Illinois%20law%20is,is%20considering%20a%20similar%20bill>.

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