Media Marketing Compliance

BUILDING TRUST THROUGH TRANSPARENCY

WFA
World Federation of Advertisers

Effective financial Management – a focus on Influencer Marketing, PR and Social

- Trends and insights into the social and influencer marketing landscape
- Who is handling your social spend?
- Contracts with Agencies and Specialists
- Agency and Specialist Remuneration
- Talent & Influencers – Sourcing and Cost Treatment
- Social Media Partner Costs
- Recurring Issues & Audit Findings

WHO WE ARE

One of the most experienced compliance teams in the world, employing only senior staff

Completed audits in over 110 countries with offices in 5 continents

Our Managing Partner, Stephen Broderick, co-founded compliance auditing 22 years ago

Worked with most of the Top 50 global advertisers

Our team has worked with ANA, ISBA, WFA, AANA, ANZA & IAA

Registered with Chartered Accounting body

OUR TEAM TODAY

Jane Dormer

Client Services Director

Procurement background with British Airways, The Coca-Cola Company & Sky

Tony Whittingstall

Senior Partner

Agency background from IPG & Omnicom with almost 17 years in compliance auditing

THE SOCIAL & INFLUENCER MARKETING LANDSCAPE

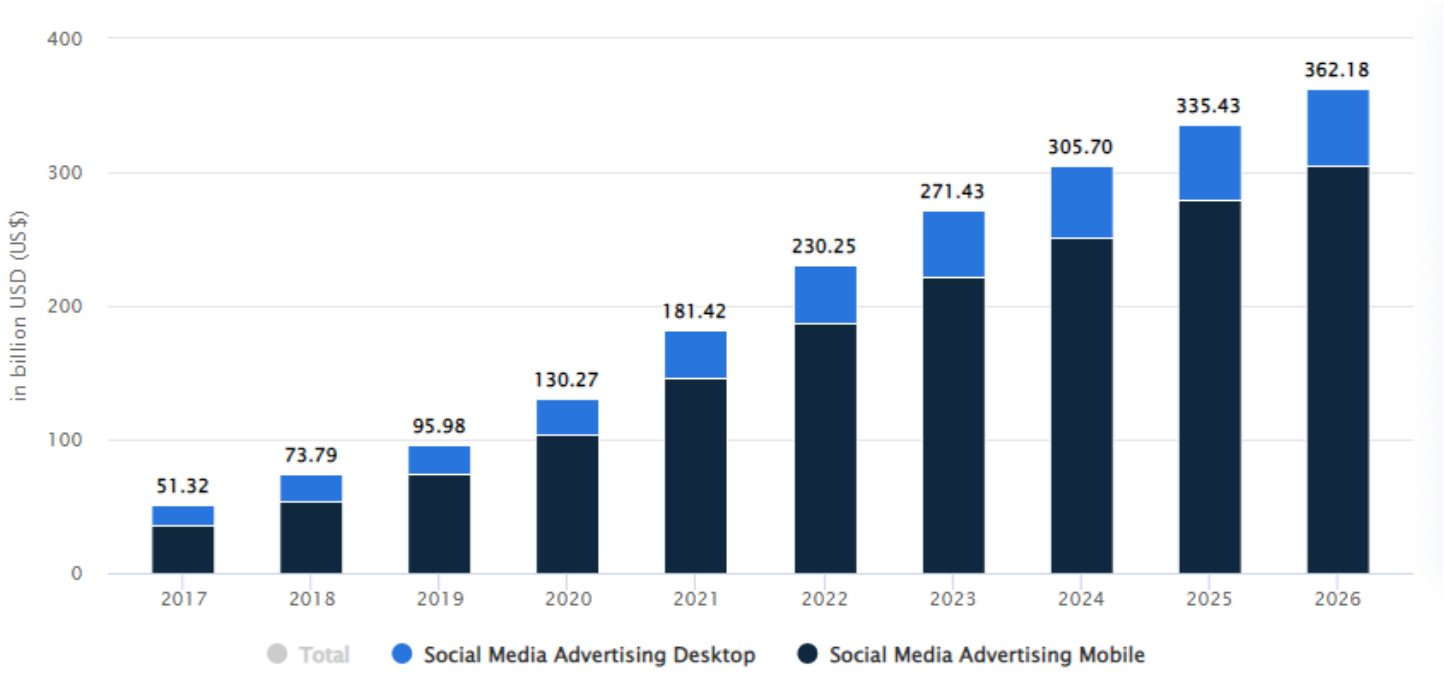
Social Advertising

Growing hand-in-hand with the digital media sector due to the more interactive nature of this media type, social marketing has grown rapidly in recent years.

Often spanning the divide between content and media space, social and influencer marketing and social media advertising represent all spend within the social networking arena (not just digital media space).

It is the 2nd biggest segment of digital advertising, representing roughly one-third of all digital spend.

Global Social Ad Spend



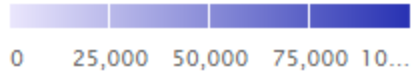
*Source: Statista – March 2022

Social Advertising

Unsurprisingly, the US and China are expected to make up approximately 70% of overall social spend in 2022, but a further 15 markets are expected to have annual social spends in excess of $1B by the end of this year.

Global Social Ad Spend

Top 5 (2022) in million USD (US$)	
1. United States	80,670.00
2. China	80,550.00
3. United Kingdom	12,160.00
4. Japan	8,913.00
5. Germany	4,482.00

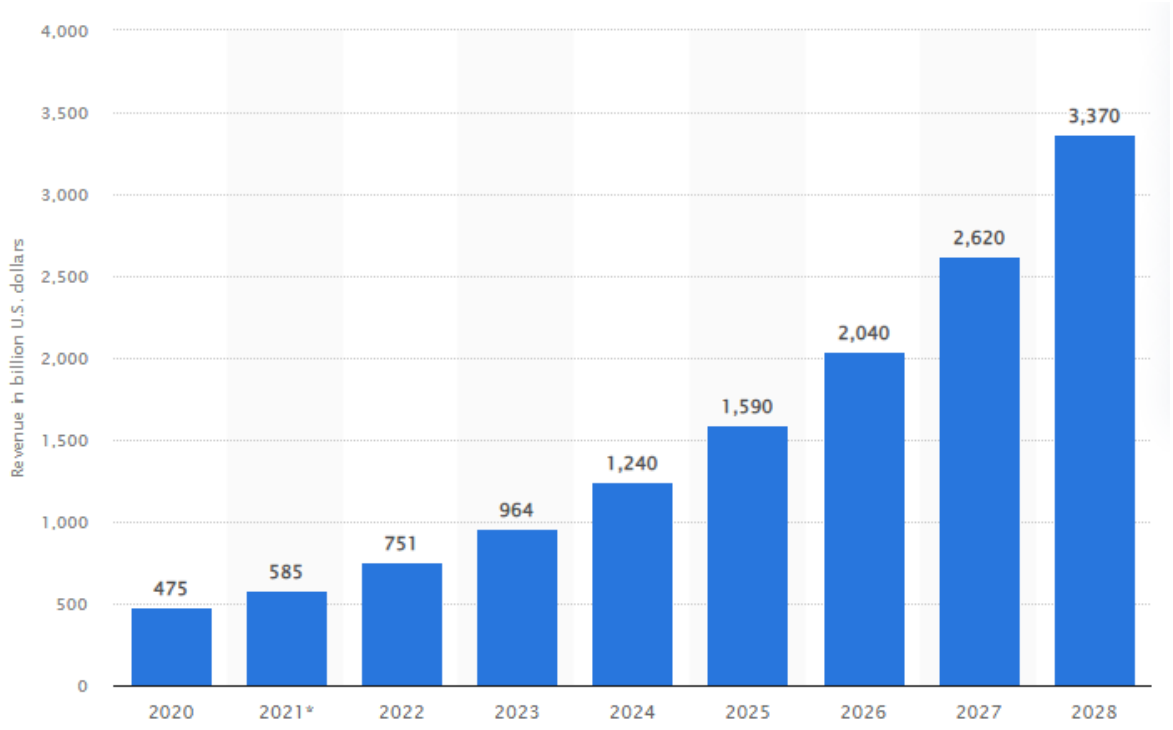


*Source: Statista – March 2022

Social Advertising

The spend on Influencer Marketing is expected to reach $16.4B in 2022, led by the increasing popularity of the short video format on social networks. The global pandemic helped to accelerate this trend.

Global Social Commerce Revenue



*Source: Statista – August 2021

Influencer marketing is now showing a direct return through its pairing with social commerce. Purchases made on social media platforms now account for 7% of all online purchases.

China has seen some of the largest increases in social commerce, with two Chinese live streamers selling $3B of goods within 24 hours in late 2021.

WHO IS HANDLING YOUR SOCIAL & INFLUENCER MARKETING SPEND?

Who is handling your Social & Influencer Marketing Spend?

Specialists or non-Specialists

- Many advertisers are not engaging directly with specialists in this area.
- Instead tasking either their creative strategy and development agency of record or even media planning and buying agency of record to handle social marketing spend.
- This is driven by either:
  - the advertiser's desire to limit number of vendors
  - simply no available specialists in target markets

Who is handling your Social & Influencer Marketing Spend?

Markets without Specialists

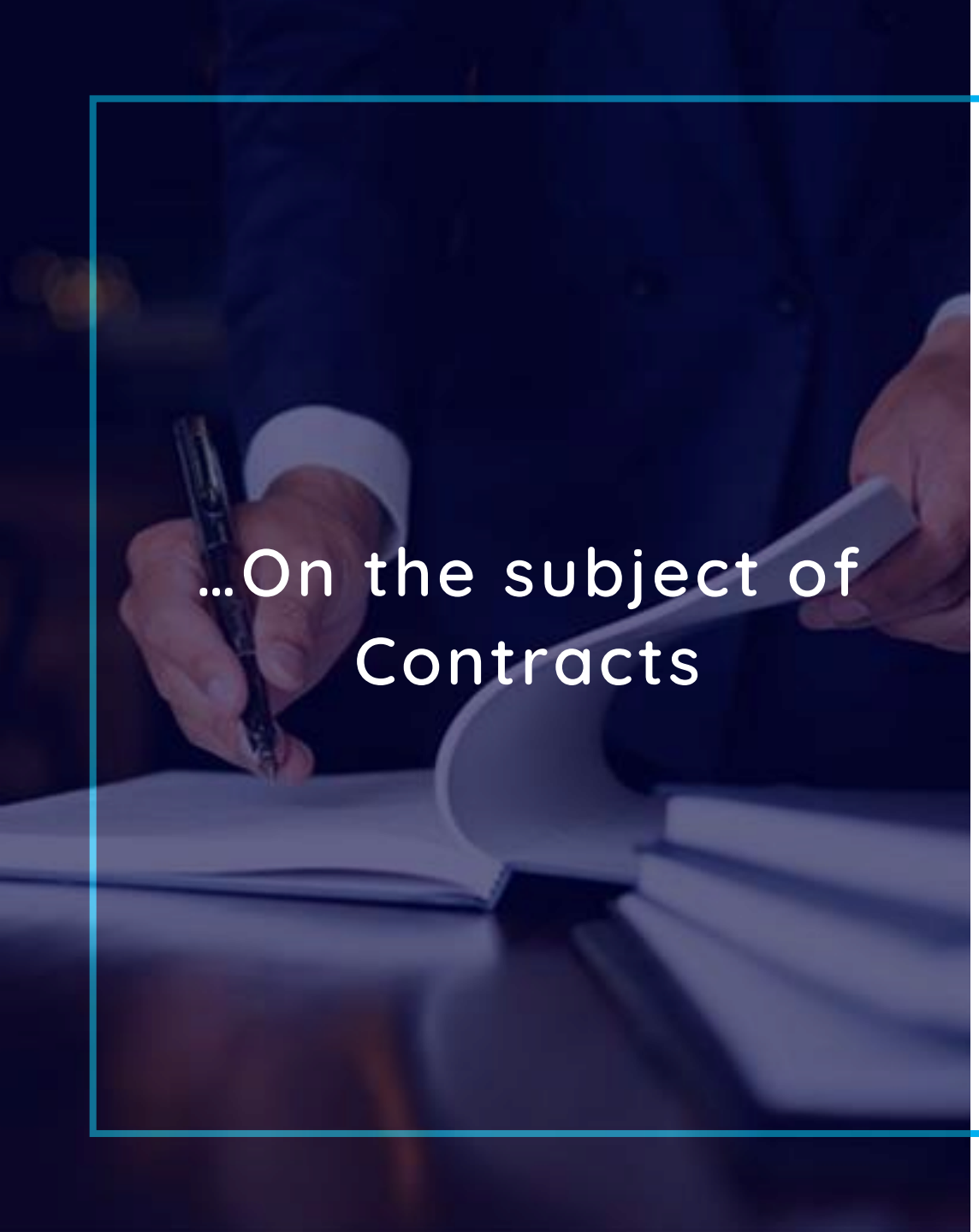
- Non-specialist agencies used with a lack of required skill sets
- ‘Make do’ approach can mean advertisers are given misleading information
- Sub-standard negotiations due to lack of experience
- Lack of best practice or evolving techniques along with repetition of bad practice and a slowly degraded set of controls

Who is handling your Social & Influencer Marketing Spend?

Markets with Specialists

- In developed markets, many advertisers still not engaging directly with a specialist.
- Contracted agency may engage with a specialist, often a related party, who will operate as a subcontractor.
- This can easily create **barriers to control and transparency**.
- **Barriers to Control -** Contractual obligations with contracted agency may not extend to the specialist. This can lead to a lack of protections.
- **Barriers to Transparency -** Audit rights do not extend to the specialist. This can easily lead to specialist adding hidden mark ups

YOUR CONTRACT



…On the subject of Contracts

Master Agreement with an inbuilt General Scope of Services

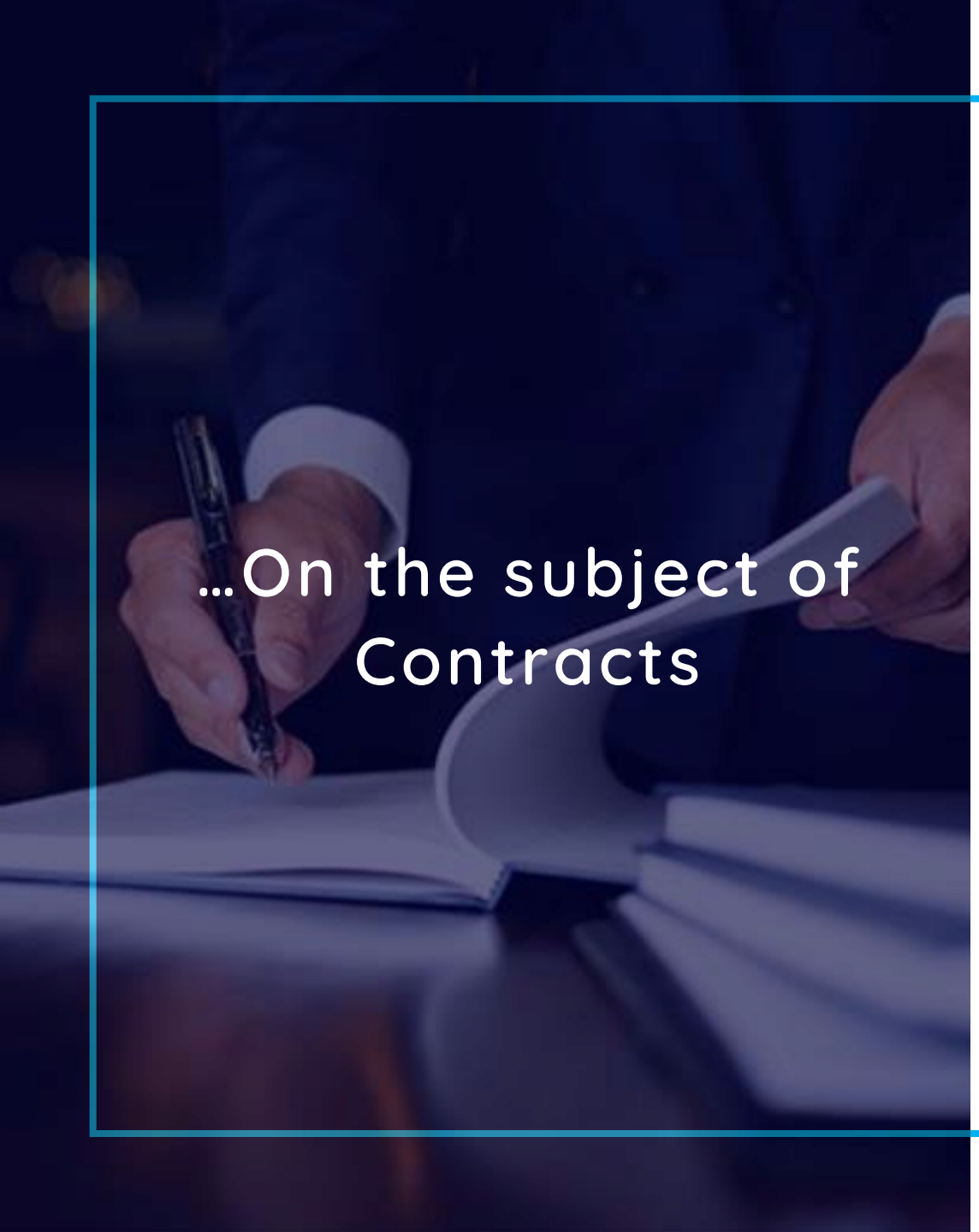
Often used for retainer models where a broad collection of core services are remunerated through an annual retainer fee

Pros

- Appropriate attention given to key controls applied across all activity with effort only required to negotiate these controls once.
- Consistency breeds familiarity. Familiarity clarifies expectation. Clear expectations aid with adherence.

Cons

- Does not cope well with rapidly changing plans/workloads and unpredictability.
- A poorly defined core scope of services gives opportunity for the agency to quote too many projects as ‘out of scope’ and therefore separately chargeable.



…On the subject of Contracts

Framework Agreement with Project Level Scopes of Work

Used for more project-based workloads, with limited or no continuous retainer, or situations where the segmentation of services/budgets is a driving factor.

Pros

- The divisible nature of separate SOWs makes approving, tracking and reconciling brand budgets much easier.
- Generally smaller SOWs amounts lead to faster reconciliation times which promote more real-time accountability.

Cons

- ‘Mind the Gap’ – Often framework agreements, in their attempt to provide a broad set of controls, can leave more specific terms for SOWs. These more specific terms can easily be overlooked and effectively fall into the expectation gap between MSA and SOW.

THE KEY SPEND COMPONENTS

To Reconcile or not to Reconcile?

Within Social and Influencer Marketing spend, there are generally 4 main categories. However where specialists are involved in service provision but are not the contracting agency, the line between what is a service fee and what is an out of pocket cost can become blurred:

- **Agency Fees**
- **Talent & Influencers (OOPs)**
- **Social Media Networks (OOPs)**
- **Other & Expenses (OOPs)**

We will look at each category and some specific considerations for each.

AGENCY FEES

Which Remuneration Model to Adopt

When it comes to fees, the initial considerations will follow those of your contract and scope of services, the biggest decision being whether you opt for a retainer fee for an overarching scope of services or separate project fees.

Other considerations on remuneration model to be used will include:

- the size of the account
- level of accountability required
- tolerance for administrative oversight
- the level of expertise or skills required in providing the service
- the transactional nature of the service
- The level of motivation for cost saving intended

AGENCY FEES

Level of Reconciliation Required

Most importantly, do you want to consider your fees fixed in nature or reconcilable.

Fixed Fees

- Predictable and easy to manage
- A prescribed determination methodology should be included in the framework agreement:
  - Deliverables rate card
  - Estimated hours / Agreed hourly rates
- Time reporting can still be a requirement.

AGENCY FEES

Level of Reconciliation Required

If reconcilable, to what degree?

Reconcilable Fees

- Reconcilable on what basis:
  - time basis only (fixed hourly rates)
  - fully reconcilable staff cost plus model (cumbersome for project based activity)
- Ensure the agency are aware of their obligations to reconcile fees (starting with recording time)
- Reconcilable fees can be capped.
- Audit rights must give access to variables

Considerations before engaging Talent & Influencers

- Is talent / influencer approach the right approach? Are they needed?
- Global / Regional / Local
- Talent Assessment – Need / Fit
- Budget
- Who best to drive negotiation
- Legal Aspects

Involvement in Influencer & Talent Engagements

Direct involvement with Mega-influencers or Talent

- Require more control
- Involve agents/representatives.
- Advertisers in negotiation.
- Contracts often direct.
- Use of images or created content in other materials:
  - Time
  - Geography

Through specialist for Macro & Micro-Influencers

- More need for market knowledge or research
- Identification of appropriate influencers
- Can be time consuming and admin-intensive.

Treatment of Influencer & Talent Costs

- Transparent reconcilable cost as charged by the influencer.
- If specialist involved, ensure pre-agreed fees for services, with transparency into underlying actual cost.
- Ensure no duplication of specialist services/fees and agency services/fees.
- NB % mark ups do not incentivise strongest negotiation.

SOCIAL MEDIA PARTNER COSTS

Given the nature of the social media networks, some considerations are more frequently encountered in media buying operations.

Uncleared/Unbilled Costs

- Social media networks can bill for differing amounts than booked or not bill at all, leaving residual funds at the agency.

Rebates

- Some of the larger social network players offer rebate deals to groups with media buying agencies. Social spend can contribute to these media deals.

- Specific contractual attention needed if the advertiser wants to ensure pro rata rebates are returned by the agency group

Treatment of other Out of Pocket Costs

- Transparent reconcilable costs
- Ensure agency / specialist fully aware of agency travel and expense policies
- Beware uncontrolled allowances for travel and expenses
- Avoid holding pots / surplus funds made from unused project balances

RECURRING ISSUES & AUDIT FINDINGS

Related Party Talent Specialists

- Larger agency groups have specialist social marketing, influencer or talent sourcing entities within their group.
- We often find duplication of fees/services between agency and sub-contracted party, effectively this is ‘double-dipping’ by the agency group.
- Often goes undetected as the AOR fees appear as fees whereas the specialists fees appear as OOP costs.
- Effectively the specialist fee becomes a hidden mark up.

SIMPLE LACK OF RECONCILIATION

PROJECT BILLINGS NOT BE RECONCILED

- As with any reconciliation, they need to actually be done.
- Aging projects not reconciled and even where reconciled, balances not returned.
- Brand Managers tell agencies to ‘hold on to that’ to protect future budgets. This creates ‘slush funds’ at agencies and circumvents proper procurement practices.

Lack of Control Measures for Influencers

- For brands frequently utilizing influencers, framework agreements include guidelines for their use, possibly even terms for engagement letters between agency and influencer to safeguard the advertiser brands.
- These controls are only as good as their use in every day practice.
- Shortcuts used to engage with influencers in a trouble free manner can mean that this control measure is overlooked.
- Repetition leads to bad practice/terms becoming standard
- Instances of non-specialist agencies using standard freelancer engagement letters for influencers.

BUDGETS TREATED AS FIXED PRICES

SOW Budgets treated as Fixed Price Arrangements

- Lack of clarity on reconcilable nature of any element of SOW can lead to entire project being treated as fixed price and non-reconcilable.
- Can lead to inconsistent treatment, to the agency's benefit. Overspends lead to requests for budget increases, but underspends do not lead to surplus fund returns.
- If SOW does not distinguish between reconcilable and non-reconcilable elements, effectively all become non-reconcilable.
- Client approvers should be fully aware of controls and should clearly show on any signed SOW separately the agreed fee and OOP budget.

RECENT AUDIT CASE STUDIES

Global Drinks Brand

6 markets audited

Utilized creative agency in 3 markets to handle all social and influencer spend. Significant out of scope / retainer overlaps

$2.4m returned to client in un-reconciled activity and out of scope fees

Helped client redefine scope of services & deliverables rate card for some additional services

Global Athleisure Brand

2 markets audited

Related party talent sourcing company used which charged hidden mark up for activity all covered by core agency fees

$1.7m returned in cash for related party hidden markups and main agency project balances

Return of all hidden mark ups (from audit period and prior years) and cessation of such markups going forward

QUESTIONS & ANSWERS

Roles & Responsibilities

- **Who should own or control this space the client, the agency or a hybrid approach?**
  - This very much depends on the capability of the advertiser team and the agency team – and needs to be a very honest conversation with the agency. However, we believe the advertiser should always have the final ownership or control.

- **Do you see procurement owning this whole process?**
  - No – we see the process being owned jointly with the marketing team; Procurement has a lens on commercial and controls and Marketing has a lens on the content – but together there is a stronger relationship with the agency.

- **Please clarify - if the subcontractor is a related party, we should have audit rights. If the sub-contractor isn't a related party, we won't have audit rights, correct?**
  - Ideally your contract should give you audit rights regardless of whether the subcontractor is a related party or not. Many contracts will initially only have audit access to agency records (and possibly agency affiliates), but contractual terms can be added to your agency contract that ensure that any time they engage the services of a subcontractor (related party or not) that your agency obtains the same audit access from the subcontractor as they are providing to you.

- **In countries that don't have the expertise, what should be the main actor that is taking on the Influencer side? Media? ATL? PR?**
  - This is difficult to give a definitive answer on – I would test the capabilities of each of your partner agencies and depending on the outcome agree the best course of action: e.g. if working with an agency from one of the holding companies (WPP; Publicis; Dentsu; Havas etc) ask for the activity to be lead from an agency hub / centre of excellence whilst building the skill set locally.

Agency Model

- **Could you make a specific example of 'specialist agency'? Do you mean the services offered directly by the social platform itself? or what do you mean?**
  - There are specialist influencer marketing agencies, but this also represents social media/marketing agencies or even creative, digital, talent or PR agencies with established pre-existing divisions which specialise in social and influencer marketing.

- **Is in-housing influencer agency activities rather an exception or something you see as a kind of trend in some markets?**
  - In-housing is the trend in markets/regions where advertisers do not believe suitable agencies exist to service their needs. More developed markets with established service providers tend to opt for a more hybrid model rather than pure in-housing, even where the advertiser wants a greater level of involvement in the management of influencer marketing, due to the staffing flexibility, expertise and access to market-specific knowledge and research of influencer marketing specialists.

- **What is then the best set-up to contract with micro influencers with needing to contract directly? Are there specialised agencies out there recommended for use instead?**
  - An advertiser should have a template MSA or Letter of Engagement specifically for micro influencer – there are templates from ISBA for example. It then becomes important not to dilute these through negotiations as usually there are many micro influencers to choose from and bluntly if they won't agree to your template then move on to others who will. Having said that the template should be fair if not totally equitable!

Financials

- **I sometimes see with more bespoke, high end influencer agencies (that act like former talent houses) a tendency to be very unwilling to split out agency fees/production costs/influencer talent fee when they are asked to deliver everything together. For access to top level influencers, they can be purposefully non-transparent. Have you seen that?**
  - It is rare but this situation does exist where some influencer agencies are acting more like '*pseudo-agents*' for top level influencers with whom they have developed relationships. When dealing with top level influencers or significant talent, it is worth insisting that any engagement contract is a 3-party agreement signed between advertiser, agency and talent, rather than a bilateral agreement between agency and talent. This is prudent on the grounds of brand stewardship. This should also then provide transparency into influencer/talent cost.

- **To avoid out of scope fees or out of market price talent fees, would a Performance Based Compensation (for both agencies and influencers) be a healthy counter to expenses going up without ROI?**
  - This might be a better option, but it is important to get the right metrics agreed which will hit the balance between motivating the agency and influencer while not exposing the advertiser to excessive high-performance costs. This model obviously lends itself more to motivating influencers when paired with social commerce.

- **Besides costs savings, where can these specialist agencies create additional value to the client?**
  - A specialist agency will have connections within the influencer / social space that an advertiser won't necessarily have and as it is a space that they are constantly working in should have better knowledge than the marketers (who are usually looking after a wider range of activity) making it more time efficient and more relevant. They will also have more readily available access to better research and networking within the market which will come in particularly useful when identifying and sourcing micro-influencers.

Benchmarking

- **Are there any benchmarks available to compare rates?**
  - We are not aware of any credible benchmarking on influencer marketing as it is still very much the Wild West when it comes to influencers with a massive potential variance as people are still charging what they think they can get away with in many cases. However, there are benchmarks for the creative agencies, digital agencies and PR agencies, all of which handle Social activity.

THANK YOU

and if you have any other questions
please do not hesitate to get in touch!

CONTACT US

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