INFLUENCER PAY EQUITY GUIDE:

CONSIDERATIONS FOR INFLUENCER MARKETING CAMPAIGNS & CONTRACTS

NOVEMBER 2023

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INTRODUCTION

Global influencer marketing spend is projected to reach $34 billion by the end of 2023.[1] Much of that investment is designed to reach Gen Z audiences, approximately 50% of whom identify as BIPOC (Black, Indigenous, and People of Color), and who often follow creators that resemble them and represent their interests and values.[2] These creators function as standalone media channels. In the same way that marketers invest in diverse suppliers to reach diverse consumers, marketers are investing more and more in diverse influencers to reach multicultural consumers.

BIPOC creators possess immense cultural influence and the ability to deliver strong growth and ROI for brands, yet studies have emerged over the past several years that indicate a pay gap between White and BIPOC influencers. The most frequently cited report was conducted by MSL in 2021 and surveyed over 400 influencers. It identified a 29% pay gap between white and BIPOC influencers based on both quantitative and qualitative data.[3] A July 2023 update to that study surveyed over 550 creators found that by the end of their first year, white influencers are nearly twice as likely to get a sponsored brand deal as BIPOC influencers (73% compared to 46%).

“This collaboration and work will help ensure more fair, equitable, and transparent practices when partnering with influencers, who fuel growth for marketers and our industry.”

— Bob Liodice, CEO, ANA

“During a moment when many are stepping back from diversity, equity and inclusion initiatives, this partnership represents our industry’s steadfast commitment to DEI. It’s critical for our workforce and our work.”

— Kim Sample, President, PR Council

White influencers were also twice as likely to secure their first brand partnership in the first six months of their influencer work (42% white compared to 21% BIPOC).[4] BIPOC creators have reported both within the above studies

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[1] Ad Age, “Global Influencer Marketing Spend Expected to Hit $34 Billion in 2023.” Gillian Follett, September 14, 2023.
[2] Pew Research Center, “On the Cusp of Adulthood and Facing an Uncertain Future: What We Know About Gen Z So Far.” Kim Parker, Ruth Igielnik. May 14, 2020.
[3] Adweek, “Study Reveals a Significant Racial Pay Gap in Influencer Marketing.” Natalie Venegas. December 7, 2021.
[4] MSL, “New MSL Data Identifies Specific Barriers to Entry and Success for Diverse Creators.” Shreya Mukherjee. July 24, 2023.

INTRODUCTION

and to major media outlets that they are being offered unequal remuneration, partnership benefits, and brand opportunities compared to their white counterparts.[5]

While the roots of unequal pay are complex and multifaceted, lack of transparency within the influencer marketing supply chain is a clear contributor to pay inequity. Marketers often rely on multiple platforms and agency partners to execute campaigns and can lack full visibility into the cost waterfall to influencer payment, which prevents them from ensuring equitable pay across their various brands and influencer partnerships. Having a framework and system in place for influencer pay equity is an important part of a brand's diversity, equity, and inclusion commitments. It also allows for clearer benchmarking of campaign performance and ROI, particularly for marketers executing campaigns across multiple brands and lines of business. The 2023 Influencer Pay Equity & Transparency Guide is the first industry collaboration of its kind to support marketers committed to ensuring that the influencers they work with reflect their consumers and are compensated equitably. This guide offers a roadmap for marketers with considerations from campaign planning through contract negotiation and campaign execution.

"Influencers can reach untapped audiences in a way that is both authentic and powerful at brand building. Yet not all influencers have the same access to social capital, legal counsel, experience negotiating contracts, and administrative support. Knowing this, it is vital for marketers to promote fair business practices that foster equity in influencer partnerships."

— Kevin Freemore, SVP Media, Tech & Data, 4A's

"As a marketer of color, it's important to me that everyone we work with is not only treated well but is compensated equitably for their work. We want to foster a culture of trust and respect between influencers and the brand, which can ultimately lead us to foster long-term partnerships and positive brand sentiment in the creator marketplace."

— Nilam Patel, Social Media Influencers & Ambassadors, Nationwide

[5] M Booth, "Influencer Equity Playbook." Amy Shoenthal. April 18, 2023.

INFLUENCER PAY EQUITY CONSIDERATIONS

CAMPAIGN PLANNING

A diverse and inclusive team and planning period are critical to ensuring equitable campaigns. Marginalized voices, perspectives, and experiences should be represented throughout. Dimensions of diversity to consider include race, ethnicity, sexual orientation, gender, religion, age, body type, neurodiversity, disabilities, and other protected groups.

One way to kick off the planning period is by aligning on the business goals, desired campaign outcomes, and key performance indicators. For sample KPIs broken down by campaign objective, reference the ANA's **2022 Influencer Marketing Measurement Guidelines**.

OTHER CONSIDERATIONS

- **What new audience(s) is the brand looking to reach?**
- **Which influencers reach this audience?**
- **What are the campaign's priority channels?**
- **Where does the target audience go for entertainment?**
- **Where does the target audience get their information?**

Before outreach and negotiation with influencers, it is important to understand each influencer's role(s). Will the outreach be mainly through their large social following? Authenticity and credibility through a product recommendation? Content creation and production? Driving sales through a live stream, promo code, or affiliate link? Or a combination of the above?

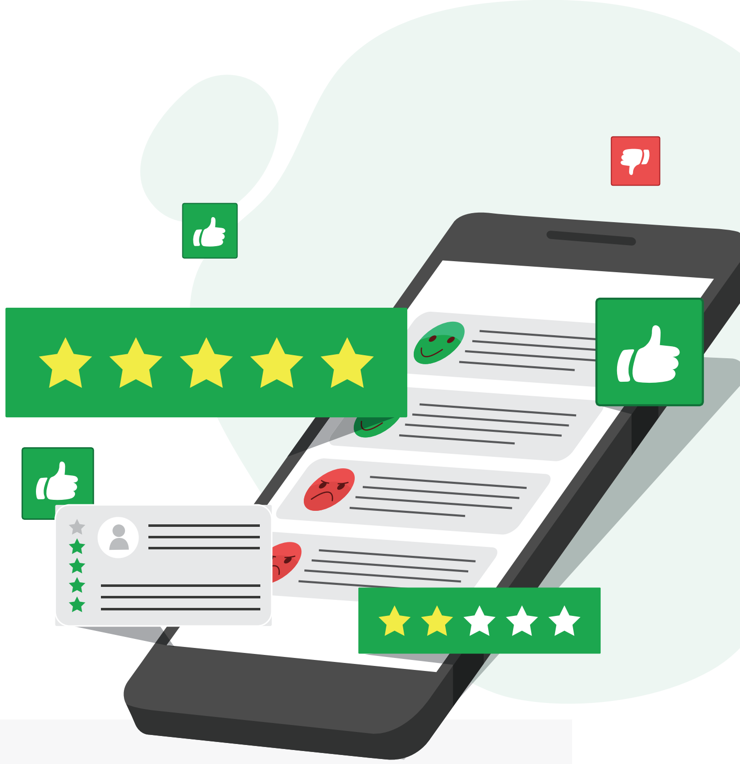
An influencer's role and the campaign or content requirements (e.g., number of posts, type of posts, social channels utilized), will affect influencer compensation. For a list of additional considerations that might affect compensation, reference the Compensation section on pages 10 and 11.

INFLUENCER PAY EQUITY CONSIDERATIONS

EVALUATING RISK AND MITIGATING NEGATIVE RESPONSES

During the planning period, brands should consider preparing for potential public responses to their influencer partnerships, both positive and negative. Consider any possible backlash when engaging marginalized creators and the impact on both the influencer and the brand.

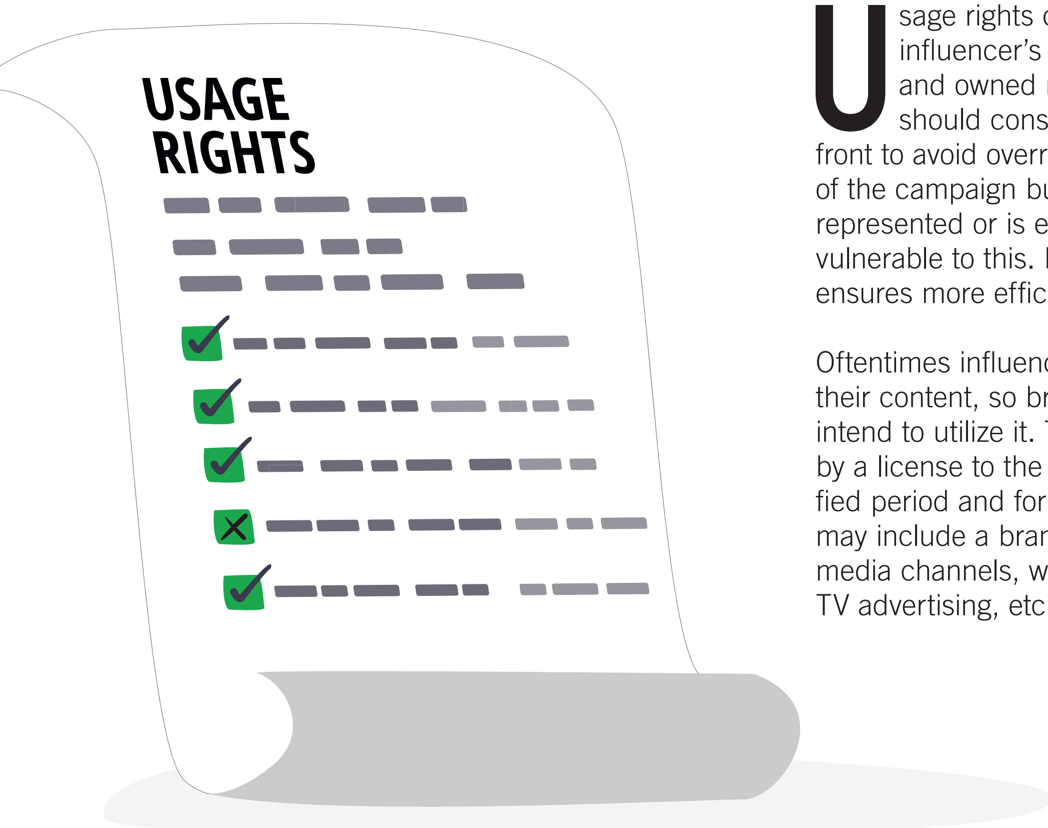
Campaign amplification, also known as paid media, exposes influencers to new audiences who might be judgmental or intolerant. This expanded reach can make influencers and the brands they partner with vulnerable. Discuss and determine potential risks and responses before moving forward with a partnership.



CONSIDERATIONS

- What are the brand's values? What is the brand's credibility and history with the targeted audience? Do the brand's purpose initiatives align with its marketing messages?
- How do the campaign's influencers represent or align with those values? If there is misalignment in values, reconsider the partnership.
- Proactively assess and evaluate all risks with a diverse and inclusive planning team before finalizing partnerships. What hot-button topics may arise?
- If the brand is asking the influencer to advocate for it, how will the brand in turn advocate for the influencer, particularly if there is backlash? Is the brand willing to stand up for the influencer in the face of public backlash?
- Influencer activations do not live in a silo. Ensure all necessary teams (social media managers, community management, PR and crisis communication, social listening, and the brand managers) are aware and involved. A strong team can help anticipate, mitigate, and de-escalate potential negativity.
- Request a media pack and do not assume diversity unless the influencer has identified as such.
- Be aware of unconscious biases when considering what is "marketable."
- Understand the impact of shadowbanning on marginalized influencers. Shadowbanning happens when content from certain users is blocked or hidden because words they use in posts are deemed as "controversial" by the platforms. This can disproportionately affect creators' engagement rates and follower counts based on social media algorithms.

USAGE RIGHTS



Usage rights clarify how a brand can use the influencer's content across its paid, earned, and owned marketing channels. Brands should consider negotiating usage rights up front to avoid overreaching terms that are wasteful of the campaign budget. When a creator is not represented or is emerging, they can be particularly vulnerable to this. Determining usage must-haves ensures more efficient and effective budgets.

Oftentimes influencers will retain ownership of their content, so brands should consider how they intend to utilize it. This use should then be captured by a license to the influencer's content for a specified period and for stipulated use types, which may include a brand's owned or operated social media channels, websites, email campaigns, TV advertising, etc.

SAMPLE USAGE RIGHTS, FROM LIMITED TO BROAD

Licensing influencer content for a limited period to repurpose on the brand's organic social channels, in e-mail campaigns, or in paid advertisements

Gaining media access to an influencer's accounts for advertising purposes[6]

Brand ownership of the influencer content with global, perpetual usage rights

[6]This is widely used in influencer marketing and additional payment to the influencer should be applied.

INFLUENCER PAY EQUITY CONSIDERATIONS

EXCLUSIVITY CLAUSES

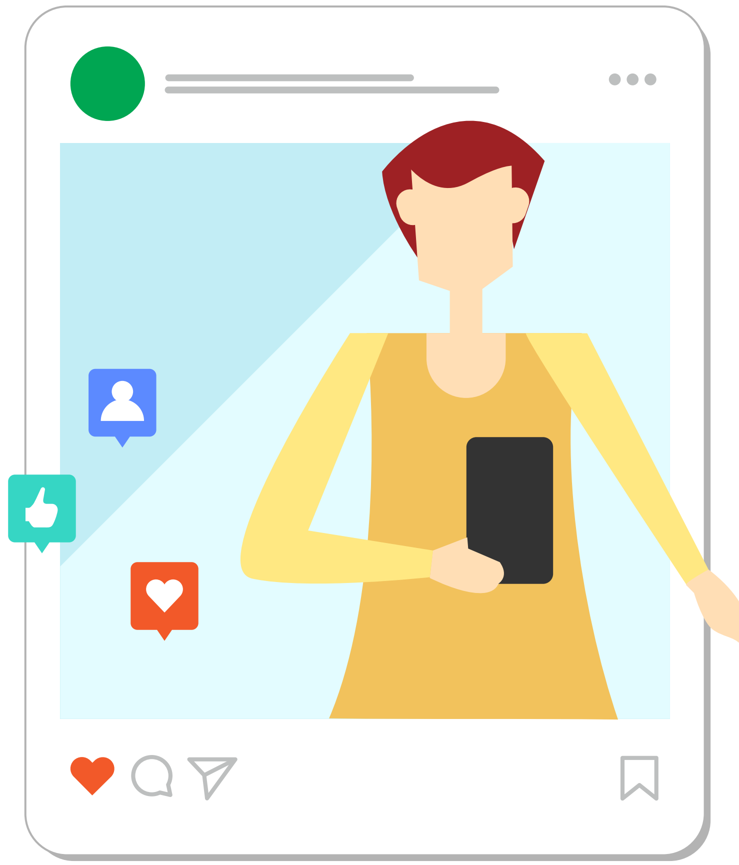
An exclusivity clause defines whether an influencer can partner with or create content on behalf of a set of competitors. It should be defined to cover the categories of services or activities that the influencer should not participate in and for how long, and should be based on campaign needs, competitors, campaign duration, and necessary timelines.

Overreaching exclusivity clauses can slow down your negotiation and are often unnecessarily broad, potentially limiting an influencer's ability to obtain more work in otherwise unrelated projects. Such overly broad exclusivity clauses can have an unintended negative impact on marginalized creators and emerging creators, particularly nano-influencers (under 10,000 followers) and micro-influencers (10K–50K followers), who might not have representation or experience negotiating contracts. They also cost more to include. Be clear on when exclusivity matters — for example, in longer-term partnerships, larger investments and talent, certain industries, and higher consideration categories. Food and beverage brands may not require exclusivity, but a car, pharma, or luxury brand might.

INFLUENCER PAY EQUITY CONSIDERATIONS

USAGE RIGHTS AND EXCLUSIVITY CLAUSE CONSIDERATIONS

- What are the brand's competitors? Does the brand need exclusivity rights?
- Consider limited exclusivity clauses for shorter-duration agreements and more isolated services. For example, for an event appearance or several social media posts, consider if exclusivity for a few weeks around the appearance or posts would suffice.
- Does the brand plan to use the influencer's content on owned channels? If so, where and how will the brand reuse the content?
- Are there certain carveouts for "entertainment exceptions" (e.g., sponsors of events the influencer is attending with step-and-repeats including competitors' logos behind them)?
- Will the influencer's content be used in the brand's paid ads?
- Does the brand plan to put paid dollars behind the influencer's content to expand reach?



Note: In January 2023, the Federal Trade Commission (FTC) proposed a new rule that would ban employers from imposing noncompetes on their workers. The FTC is expected to vote in April 2024 on this proposed rule. It likely will apply to independent contractors, whether paid or unpaid. When drafting exclusivity provisions and post-term restrictions such as potential noncompetes, you should consider consulting legal counsel, as various employment restrictions could be subject to the rule if enacted and applicable state laws which may fluctuate.

Knowing the answers to these questions can help determine the necessary budget and will help guide outreach and negotiation in conversations.

INFLUENCER PAY EQUITY CONSIDERATIONS

COMPENSATION

IMPORTANT FACTORS TO TAKE INTO CONSIDERATION WHEN DETERMINING APPROPRIATE COMPENSATION FOR INFLUENCERS' SERVICES:

Be mindful of the importance of compensating an influencer monetarily. Offering gifts, samples, event invitations, or exposure as forms of compensation in exchange for services generally should be avoided.

Nano-influencers (under 10,000 followers) and micro-influencers (10K–50K followers) are most vulnerable to in-kind offers (e.g., remuneration in the form of free products), especially when a brand with cachet is involved.

ADDITIONAL FACTORS TO CONSIDER BEYOND INFLUENCER REACH, FOLLOWER COUNT, OR AUDIENCE SIZE WHEN CALCULATING COMPENSATION:

1. The influencer's notoriety and reputation outside of social media
2. The value that the influencer's audience brings to the brand (e.g., alignment with target audience demographics)
3. The content quality, content format/type, and social platform(s) used
4. The content production requirements and overall project expenses. If editing, travel, special equipment, and/or additional support is needed, that should be factored into compensation
5. The influencer's traction and success on the platform(s) used
6. The complexity and sensitivity of the messaging and product (e.g., a pharma or medical brand will likely need to compensated higher than a CPG brand)
7. The brand reputation: Influencers often expect higher rates from certain brands like luxury products and lesser-known companies

INFLUENCER PAY EQUITY CONSIDERATIONS

COMPENSATION

- 8 Campaigns around key seasons or cultural moments (e.g., Black History Month or holiday shopping). Influencers charge a premium rate for flighting in periods of high demand
- 9 Expedited or rush timeline for content delivery
- 10 Campaign scope: Depending on their goals, influencers may expect higher rates on a single campaign versus with an ongoing long-term partnership
- 11 Family involvement (e.g., asking parent influencers to include their children in the content)
- 12 Performance analytics: Will the brand be requesting reports on campaign performance or other campaign performance data from the influencer?
- 13 Exclusivity clauses: Longer timeframes or more restrictive categories may warrant additional compensation
- 14 If a previous campaign with the same influencer was especially successful (high reach, engagement rate, conversion rate, etc.), the influencer may expect an increased rate on future campaigns
- 15 Ownership of content (term of ownership, usage limitations, etc.): Many influencers may try to retain ownership of the content, agreeing to license the content to the brand for the duration of the campaign
- 16 Brand oversight and number of campaign checkpoints (multiple rounds of approvals, reviews, reshoots, etc.) should be factored into compensation

The above-listed factors allow the brand to compose a formula that emphasizes what is important to them in an influencer. Assuming that certain factors are not biased towards one group, which should be determined by additional tests, the formula is then a sound and objective method for determining compensation.

When determining the factors which dictate compensation, it is vital to ensure that they are documented. Documentation and recordkeeping is a hallmark of attaining and maintaining pay equity. To create accountability, consider tracking what influencers are paid across campaigns executed, and conduct regular internal audits on payments with your finance team. Once conducted, reflect on the results to determine what adjustments may be needed.

INFLUENCER PAY EQUITY CONSIDERATIONS

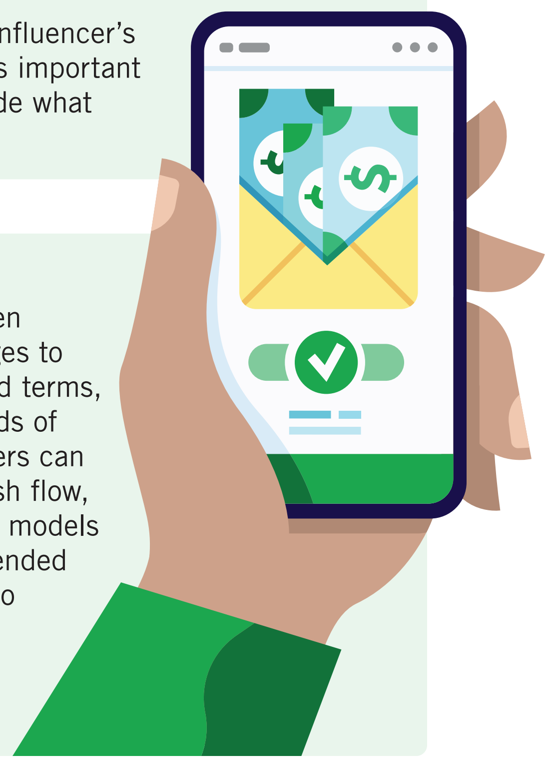
PAYMENT

Consider establishing a standard payment schedule (e.g., net 30 or net 60), depending on what's feasible for your organization's finance department. The schedule should align with the schedule set forth in your contract.

Provide influencers the proper tools and resources to ensure they can be paid. This may include making sure they are registered in your organization's payment system in a timely manner and that they receive instructions on how invoices should be properly submitted.

Be communicative about the payment structure and any issues that may delay payment (e.g., payment being contingent on a fully executed contract that is still being negotiated or payment contingent upon receipt of invoice).

Note that self-service influencer platforms may not disclose an influencer's pay amount because of their fee structure. If pay transparency is important to your organization, get clarity on that up front so you can decide what agencies and platforms are right for your brand or campaign.



Payment terms are one element of a broader relationship between marketers and influencers. Marketers who are considering changes to their payment terms for influencer services, particularly extended terms, should proceed with caution. The business models and livelihoods of smaller players in the marketing supply chain including influencers can be threatened by extended terms. They require a predictable cash flow, often don't have access to large lines of credit, and have pricing models that do not reflect the costs to their business resulting from extended terms. Marketers and influencers need to proceed with caution to ensure that the terms of their relationship — including payment terms — are sustainable. More in the 2020 ANA white paper, "Payment Terms: Current Practices for Marketing Services."

INFLUENCER PAY EQUITY CONSIDERATIONS

CONTRACTS

The following are suggested considerations for drafting influencer agreements. You should work with your legal team to design influencer agreements that appropriately reflect elements that are relevant to your brand or campaign and that comply with applicable federal, state, and local laws:

- Be as specific as possible about influencer requests, deliverables, distribution, posting schedules, usage, and exclusivity terms.
- Be specific about the requirements for services, social posts, and what should be covered in the content.
- Consider if you are asking the influencer for performance analytics/metrics, and if so, include that within the contract.
- Consider the usage rights and what materials/media will be distributed. Consider certain restrictions/exclusions on types of websites or other platforms that may not align with the campaign or the influencer's values.
- Be specific about IP rights related to the influencer's image, likeness, and voice, including what rights are granted to use or copy.
- Note the term (length of the contract), the corresponding rights, and any post-term, archival, and historical rights.
- Consider the territory, where the content can be distributed, and ways to ensure that the full scope of planned media is covered and communicated.
- Aim to ensure the ownership provision outlines what is owned and by whom. For more on this, reference the above sections on Usage Rights and Exclusivity Clauses on pages 7–9.
- Consider including specifics related to approvals and what approval rights the influencer has in the materials or the campaign.
- "Dos and Don'ts" specific to campaign content, as well as general guidelines specific to the brand's needs, may be helpful.
- Include specific FTC disclosure requirements for influencer content.
- Consider noting the hours required for service days and any expenses associated with such service days (make-up and glam, stylists, travel, etc.).
- Consider including language on how both the influencer and the brand will handle any negative responses to the campaign or the partnership.
- Consider SAG-AFTRA obligations if the influencer is a member or if the advertiser or agency is a signatory to the SAG-AFTRA Commercials Contract. In either circumstance, there may be obligations under the Influencer Agreement, Influencer Waiver, or Commercials Contract. These obligations may include minimum payments and a contribution to the pension and health plans payable on top of any compensation paid to the influencer. For further information, visit the Joint Policy Committee website: **jointpolicycommittee.org**.
- Some influencers at higher levels may request pay-or-play clauses which guarantee one party will pay the other, even if the latter is released from the contract and their services are not used.
- Note that an initial agreement between a brand and an influencer establishes precedent. It can be difficult to make changes or include new/additional terms to that agreement once it is finalized.

ADDITIONAL RESOURCES

For more research and insights on influencer pay equity and compensation practices, we recommend the following resources below.

Time to Face the Influencer Pay Gap
MSL's landmark "Time to Face the Influencer Pay Gap" study uncovered a significant racial divide in influencer marketing compensation: 29 percent between White and BIPOC (Black, Indigenous and People of Color) influencers and 35 percent between White and Black influencers. This frequently-cited study delineates the numbers and forces behind the influencer pay equity gap.

M Booth's 2023 Influencer Equity Playbook
In March 2023, M Booth released a comprehensive Playbook to guide marketers toward concrete actions our industry can take to close the influencer equity gap. This Playbook includes steps and offers tools to create more fair and equitable practices in the end-to-end process of influencer marketing.

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- Kim Sample, President, **PR Council**

ABOUT THE ANA

The mission of the ANA (Association of National Advertisers) is to drive growth for marketing professionals, brands and businesses, the industry, and humanity. The ANA serves the marketing needs of 20,000 brands by leveraging the 12-point ANA Growth Agenda, which has been endorsed by the Global CMO Growth Council. The ANA's membership consists of U.S. and international companies, including client-side marketers, nonprofits, fundraisers, and marketing solutions providers (data science and technology companies, ad agencies, publishers, media companies, suppliers, and vendors). The ANA creates Marketing Growth Champions by serving, educating, and advocating for more than 50,000 industry members that collectively invest more than $400 billion in marketing and advertising annually.

ABOUT THE 4A'S

The 4A's was established in 1917 to promote, advance, and defend the interests of our member agencies, employees, and the advertising and marketing industries overall. We empower our members to drive commerce, spark connections, and shape culture through infinite creativity. With a focus on advocacy, talent and the value of creativity and technology to drive business growth and cultural change, the organization serves 600+ member agencies across 1,200 offices, which help direct more than 85% of total U.S. advertising spend. The 4A's includes the 4A's Benefits division, which insures more than 160,000 employees; the government relations team, who advocate for policies to support the industry; and the 4A's Foundation, which advocates for and connects multicultural talent to the marketing industry by fostering a culture of curiosity, creativity, and craft to fuel a more equitable future for the industry.

ABOUT THE PR COUNCIL

The PR Council is the only association dedicated to supporting agencies with a core competency in earned media. Through a combination of convening and advising, the PR Council aims to help Members — the leaders of 140 of the country's premier global, mid-size, regional and specialty firms — work smarter to build more valuable agencies. To mark its 25th Anniversary in 2023, the organization is future focused on the most critical issues affecting PR agency leaders' ability to attract and retain talent and grow client relationships and their firms.