Princeton University Press Book Proposal

April 2025

*Duty of Publicity*

*Influencer and Platform Responsibility in the Social Media Age*

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# Cover Letter

Apr. 17, 2027

Dear Acquisitions Editor,

I am writing to submit my book proposal, *Duty of Publicity: Influencer and Platform Accountability in the Social Media Age*, for your consideration at Princeton University Press.

The book offers a novel and interdisciplinary analysis of the legal, economic, and psychological structures that govern influencer advertising in the new digital economy. Drawing on nearly a decade of research—including original empirical studies and recent articles in the University of Illinois Law Review, Berkeley Technology Law Journal, and Theoretical Inquiries in Law—Duty of Publicity examines how the legal system has enabled the unchecked spread of viral, persuasive, and often deceptive campaigns, and proposes a new policy framework to address this gap. The manuscript is currently in advanced stages of preparation and will be completed within 6–8 months. The full proposal, including chapter outline and sample materials, is enclosed.

This book has not been submitted to other publishers at this time. If that changes, I will notify you immediately. I was referred to Princeton University Press by my dear colleague Professor Orly Lobel from the University of San Diego School of Law.

Thank you very much for your consideration. I would be honored to have the opportunity to work with Princeton and welcome any questions or next steps you might suggest.

Sincerely,

**Uri Y. Hacohen,**

*Tel Aviv University Faculty of Law*

**Chief Justice Meir Shamgar Center for Digital Law and Innovation** Tel Aviv University


# Proposed Title and Subtitle

Duty of Publicity: Influencer and Platform Responsibility in the Social Media Age.

# Specifications

*Duty of Publicity* is an original project developed over nearly a decade of interdisciplinary research. While the book’s theoretical and policy frameworks are fully conceptualized, I am currently completing several empirical studies designed to substantiate and enrich the analysis. These findings will be integrated into the final manuscript.

Although the book is written from the ground up, it builds on a body of related scholarship I have published or am currently preparing in the areas of consumer protection, data-driven advertising, and platform regulation (as noted in Sections 6 and 7 of this proposal).

The final manuscript is expected to be approximately **90,000 to 100,000 words**, not including footnotes and references (equivalent to roughly **450 double-spaced pages**). It will include some theoretical models and empirical findings, along with **5–10 clearly formatted tables or figures** (such as the ones presented in Section 6 of this proposal). Several historical advertising use cases are accompanied by original campaign images obtained from academic archives, which are presumed to be lawful for commercial use.[[1]](#footnote-2) These images serve illustrative purposes only and do not need to appear in the final volume. I am happy to work with the editors to determine whether and which images should be included.

The manuscript is in advanced stages of development. Several chapters are already drafted, and the remaining empirical work is on track for timely completion. I anticipate delivering the full manuscript within **6 to 8 months**, no later than **December 2025**.

# Brief Description

*Duty of Publicity* reveals how social media has radically transformed the power and reach of celebrity influence—and how the law has failed to keep up. While legal systems have long granted celebrities exclusive rights over the commercial use of their image, those rights were designed for an era before platforms, algorithms, and parasocial intimacy enabled instantaneous, global, and often manipulative advertising. Today, a single post from a high-profile influencer can ignite viral campaigns that mislead consumers, fuel public health crises, and shape political opinion—often without legal consequence. Through vivid case studies, including the Fyre Festival, JUUL e-cigarette, and FTX cybercurrency exchange, this book shows how the modern influence economy exploits publicity rights while evading public responsibility.

Combining original empirical research with insights from law, psychology, economics, and communication studies, *Duty of Publicity* offers the first comprehensive legal and institutional analysis of influencer advertising in the platform age. It traces the rise of endorsement culture, maps the psychological levers that make influencer marketing uniquely persuasive, and proposes bold but balanced reforms—from liability frameworks and data transparency mandates to personalized disclosure rules and global policy comparisons. Both a critique and a blueprint, the book delivers a timely and vital intervention into the legal architecture of digital persuasion.

# Full Description

*Duty of Publicity* offers a bold new framework for understanding how social media, celebrity influence, and platform architecture have converged to transform the political economy of advertising—and to subvert traditional consumer protections in the process. Drawing on original empirical research and interdisciplinary scholarship across law, psychology, economics, communication, and media studies, the book challenges long-standing legal assumptions about fame, publicity rights, and the limits of liability in the digital age.

At the heart of the book is a paradox: while fame is a socially constructed phenomenon, legal systems have increasingly granted celebrities exclusive commercial control over their image and likeness. These “publicity rights,” originally justified on moral and economic grounds, were meant to reward creative labor and protect against deceptive use. But in today’s platform economy, those rights have been radically amplified—weaponized by celebrities, influencers, and tech platforms to drive viral advertising campaigns that can mislead, manipulate, and sometimes defraud the public.

Real-world cases illustrate the stakes. In 2017, Kendall Jenner was paid $275,000 for a single Instagram post promoting the Fyre Festival—a post that garnered over six million impressions in under five days and helped fuel a spectacular fraud. The founders of JUUL and FTX followed similar playbooks, using celebrities to glamorize vaping and cryptocurrency, generating explosive commercial success with devastating public consequences. Yet despite these harms, platforms and influencers remain largely shielded from liability, and legal reforms have trended toward expanding their rights rather than constraining them.

The book is structured in three main chapters. Chapter I traces the rise of influencer advertising across the print, broadcast, and digital eras. It shows how the influence economy has grown more powerful and less accountable over time, as legal, regulatory, and social norms have eroded. Chapter II explores the psychological mechanics and economic logics of influencer advertising. It models how social media influencers—through parasocial relationships, stealth marketing, and algorithmic amplification—can bypass consumer skepticism and promote viral campaigns with real-world harms, from youth vaping and vaccine misinformation to political radicalization and mental health crises.

Chapter III turns to policy. Drawing on comparative institutional analysis, it proposes a series of reforms designed to align the legal system with the realities of the digital influence economy. These include: applying unjust enrichment principles to deceptive influencer endorsements; conditioning platform immunities (such as Section 230) on compliance with data transparency and auditability; creating federal databases for influencer payments; personalizing disclosure standards based on cognitive profiles; and establishing mechanisms for public enforcement, including FTC-integrated reporting tools and whistleblower incentives. The chapter also situates these reforms within a global context, drawing lessons from recent legislation in Chile, France, and Egypt.

At once theoretical and policy-oriented, *Duty of Publicity* provides a wide-angle, deeply interdisciplinary view of how contemporary influence is made, monetized, and regulated—or not. It offers an urgent legal and cultural intervention into one of the most powerful forces shaping public life in the digital age.

# Proposed Chapter Outline

1. **The History of Influencer Advertising**
	1. **The Print Era**
		1. Advertising Business Practices
		2. The Emergence of Influencer Advertising
		3. Regulation, Liability, Industry Norms
	2. **The Broadcast Era**
		1. Advertising Business Practices
		2. The Rise of Influencer Advertising
		3. Regulation, Liability, Industry Norms
	3. **The Digital Era**
		1. Advertising Business Practices
		2. The Ascendancy of Influencer Advertising
		3. Regulation, Liability, Industry Norms
2. **The Psychology and Economics of Influencer Advertising**
	1. **Advertising Theory—Information Economics vs. Psychological Manipulation**
	2. **Influencer Advertising in the Pre-Digital Age**
		1. The Triadic Model
		2. Psychological Manipulation
			1. Models
			2. Experts
			3. Celebrities
		3. Vulnerable Communities
	3. **Influencer Advertising in the Social Media Age**
		1. The Triadic Model
		2. Psychological Manipulation
			1. Influencers
				1. *Mega*
				2. *Macro*
				3. *Micro*
			2. Platforms
				1. *Direct*
				2. *Indirect*
		3. Vulnerable Communities
	4. **Accounting—Economic Benefits vs. Societal Harms**
3. **Duty of Publicity—The Case for Influencer and Platform Responsibility**
	1. **Regulation**
	2. **Liability**
	3. **Norms**

*Introduction*

The *Introduction* builds on the description presented above. It familiarizes readers with the complexity and scope of the social media endorsement ecosystem, outlines the stakes of regulatory inaction, and introduces the book’s core thesis: that the legal system has failed to adapt to the profound changes introduced by influencer advertising and data-driven communication networks. The chapter concludes with a roadmap detailing the book’s structure and contributions (a draft version of this section is attached in section 10.I to this proposal).

 *Chapter I: The History of Influencer Advertising*

Chapter I lays the foundation for the book’s analysis by tracing the historical development of influencer advertising across three major technological eras: print, broadcast, and digital. Each section examines changes in (i) advertising practices, (ii) the role of influencers, and (iii) regulatory, legal, and normative oversight. Together, these sections show how influencer endorsements evolved into a dominant force in contemporary advertising—largely free from meaningful institutional constraint.

Several factors contributed to this outcome. Legacy gatekeepers were displaced. Advertising markets consolidated. Cultural and industry norms, such as the stigmatization of “selling out” and the principles of the Truth-in-Advertising movement, were eroded. In their place emerged a new logic of co-branding and idealized celebrity culture. Throughout, legal accountability for influencers—and later, for platforms—remained virtually nonexistent.

*Section I.A: The Print Era*

* *Subsection I.A.i* chronicles the rise of print advertising following Gutenberg’s invention of the printing press, including the proliferation of ads in newspapers, magazines, flyers, posters, trade cards, and billboards.
* *Subsection I.A.ii* traces the early emergence of influencers, from fine artists like Toulouse-Lautrec and early agency models such as Adelyne Slavik Schwill to the first Hollywood celebrity endorsers (e.g., James Lewis and Mrs. G.W. Gilbert). It highlights their growing prominence in promoting products—including controversial ones like tobacco and so-called “patent medicines.”
* *Subsection I.A.iii* documents early regulatory responses to misleading print endorsements, including laws targeting “reading notices” (undisclosed promotional content in newspapers) and fraudulent advertising claims. Key developments include the creation of the FDA and FTC, the passage of the first criminal false advertising statute (inspired by Printers’ Ink magazine), and the rise of local advertising clubs—precursors to the Better Business Bureaus. The subsection also discusses the emergence of early social and industry norms, particularly those promoted by the Truth-in-Advertising movement.

*Section I.B: The Broadcasting Era*

* *Subsection I.B.i* explores the transformation of advertising with the rise of radio and television, which introduced voice, movement, and passive audience exposure to commercial messaging. It also discusses the rise of stealth advertising strategies such as infomercials, product placements, and branded “soap operas,” as well as the introduction of audience metrics like the Nielsen ratings system.
* *Subsection I.B.ii* follows the proliferation of modern celebrity endorsers, from athletes featured in campaigns like Wheaties’ “Breakfast of Champions” to movie stars like Gary Cooper and Claudette Colbert, and from cartoon mascots like Ronald McDonald and Tony the Tiger to spokescharacters created for children’s media.
* *Subsection I.B.iii* analyzes the regulatory expansion during this period, including oversight by the FDA, FTC, FCC, SEC, and the U.S. Postal Service. Despite this expansion, liability for endorsers remained weak due to fragmented state regulations, non-binding federal guidelines, and limited enforcement. At the same time, industry norms continued to shift: the stigma around “selling out” diminished, and co-branding efforts—exemplified by the Nike-Michael Jordan partnership—became celebrated models of influencer marketing.

*Section I.C: The Digital Era*

* *Subsection I.C.i* traces the digital advertising revolution, covering the emergence of Web 2.0, mobile infrastructure, social media marketing, and advanced ad-bidding and targeting technologies. It also details the explosion of deceptive practices, from native advertorials and stealth influencer endorsements to micro-targeted political propaganda.
* *Subsection I.C.ii* examines the ascendance of social media influencers—including celebrities, micro-influencers, everyday users, and even platforms themselves—as central figures in digital advertising campaigns. It analyzes the two-phase structure of these campaigns (endorsement and viral dissemination) and their application across both commercial and political domains.
* *Subsection I.C.iii* explores the regulatory and normative collapse surrounding digital influencer advertising. It highlights the legal immunity enjoyed by influencers and platforms, the retreat of meaningful industry oversight, and the cultural transformation of “selling out” from a source of shame to a marker of success and influence.

*Chapter II: The Psychology and Economics of Endorsement Advertising*

Building on the historical foundation laid in Chapter I, Chapter II defines influencer advertising across the pre- and post-social media eras and investigates the psychological mechanisms that make it so effective. It also critically examines the competing economic frameworks that have been used to justify advertising's role in society.

This chapter is divided into four sections. Section II.A contrasts the traditional economic view of advertising as a positive information-delivery system with a more critical account of advertising as a tool of psychological manipulation. Sections II.B and II.C trace the evolution of influencer advertising—from its analog foundations to its transformation within social media environments—focusing on the mechanics of persuasion and its disproportionate effect on vulnerable populations. Section II.D concludes by weighing the economic benefits of influencer advertising against its growing societal costs, setting the stage for the book’s normative and policy interventions.

*Section II.A: Advertising Theory—Information Economics vs. Psychological Manipulation*

This section introduces two foundational perspectives on advertising. The first, rooted in “Chicago School” economics, views advertising as an efficient signaling and information-delivery mechanism that helps consumers make rational choices. It assumes stable preferences and a well-functioning marketplace. The second, more critical perspective—emerging from psychology and behavioral economics—frames advertising as a system designed to manipulate attention, emotion, and behavior. From this view, techniques like stealth marketing, omnipresent exposure, and influencer endorsements are not just informative but strategically crafted to bypass cognitive resistance and emotional indifference.

*Section II.B: Influencer Advertising in the Pre-Digital Age*

* *Subsection II.B.1* models pre-digital influencer advertising as a triadic relationship between a source (e.g., brand or political actor), an influencer (e.g., celebrity, expert, or model), and a targeted audience. Influencers served not only to persuade audiences directly, but also to encourage message diffusion across social networks.

**Audience**

**Influencer**

**Sources**

**$**

**$$$**

* *Subsection II.B.2* analyzes the psychological mechanisms underlying traditional forms of influencer advertising. For models, these include attractiveness, identification, and the “halo effect”; for experts, credibility and internalization; for celebrities, the “match-up hypothesis” and meaning transfer. Each mechanism is explored through real-world campaigns, particularly in high-impact industries such as tobacco and pharmaceuticals.
* *Subsection II.B.3* highlights how these psychological levers were especially potent when directed at vulnerable groups such as children, adolescents, and older adults. Case studies include fast food advertising targeting children, tobacco campaigns aimed at youth, and reverse mortgage endorsements targeting seniors.

*Section II.C: Influencer Advertising in the Social Media Age*

* *Subsection II.C.1* reconceptualizes the influencer advertising ecosystem in social media as a triangular pyramid. At the base are sources, influencers, and audiences; at the apex sit the platforms. Platforms both act as direct advertisers (“platform endorsements”) and mediate the communication among the base actors (“influencer endorsements”), shaping the flow, visibility, and amplification of promotional content.

**Influencer Endorsement**

**Audience**

**Influencer**

**Platform Endorsements**

**Social Media Platform**

**Sources**

**$**

**$**

**$$$**

**$$$**

* *Subsection II.C.2* details the persuasion levers used by different types of influencer endorsers—mega-celebrities (parasocial relationships), macro-influencers (reciprocity, connectivity), and micro-influencers (authenticity, proximity). It also considers the direct and indirect persuasive mechanisms leveraged by platforms, such as psychological profiling, algorithmic curation, social comparison, tribal affiliation, and fear of missing out. These dynamics are illustrated through case studies including JUUL, Fyre Festival, FTX, and the 2016 U.S. presidential election.
* *Subsection II.C.3* mirrors II.B.3 by focusing on vulnerable populations. It examines how social media advertising campaigns are particularly effective in reaching and influencing children (e.g., JUUL’s flavored product strategies) and teenagers (e.g., Instagram fashion influencers and TikTok “haul” videos), often with troubling consequences.

*Section II.D: Accounting—Economic Benefits vs. Societal Harms*

This section weighs the costs and benefits of influencer advertising in the social media era. On the one hand, it enables faster information dissemination, lowers consumer search costs, facilitates monetization for creators, and supports expressive freedom. On the other, it is linked to an array of social harms: deceptive practices, privacy intrusions, political manipulation, digital addiction, conspicuous consumption, and widespread mental health challenges, especially among youth.

Drawing on interdisciplinary social science and experimental research, this section argues that the cumulative harms of social media influencer advertising substantially outweigh its economic and expressive benefits. This conclusion provides the normative basis for the policy interventions developed in Chapter III.

*Chapter III: Duty of Publicity—The Case for Influencer and Platform Responsibility*

Building on the regulatory gaps identified in Chapter I and the harms mapped in Chapter II, Chapter III presents a comprehensive institutional analysis and a suite of forward-looking policy proposals. The discussion is organized around the three primary institutional mechanisms that shape commercial and social behavior: **regulation (Section III.A), liability (Section III.B),** and **social and industry norms (Section III.C).** Within each domain, the chapter offers targeted, evidence-based reforms designed to mitigate the harms of influencer advertising while preserving its expressive and economic value.

*Section III.A: Regulation*

This section begins by diagnosing the structural weaknesses of existing regulatory oversight. These include chronic underfunding of enforcement agencies, the non-binding nature of Federal Trade Commission (FTC) guidelines, legislative immunities that shield platforms, and the absence of meaningful procedural or financial mechanisms for private actors to report or pursue violations.

In response, the section outlines several regulatory reforms targeting both influencers and platforms. For influencers, it proposes mandatory public registration of sponsorship arrangements and enhanced disclosure obligations. One key recommendation—modeled after the **Physician Payments Sunshine Act**—would require brands to report payments to influencers exceeding a specified threshold in a publicly accessible federal database. Platforms could integrate with this database to facilitate consumer access, support compliance monitoring, and assist academic researchers and tax authorities.

Empirical studies of financial disclosure suggest that transparency has a “moral” deterrent effect, reducing excessive sponsorships and heightening public skepticism. While contested in the medical context, where transparency might deter valuable collaborations, these effects are likely beneficial in the commercial domain, where consumer wariness can counterbalance undue persuasive influence.

The section also proposes a deeper regulatory partnership between the FTC and platforms, including the creation of user-facing **reporting APIs** that would allow consumers to flag disclosure violations in real time. To further empower enforcement, the chapter recommends establishing a **whistleblower rewards program** modeled after Section 21F of the Securities Exchange Act, along with expanded **private rights of action** for consumers in cases of fraud or deception.

Additional proposals address platform behavior more directly. Drawing inspiration from the **European Union’s Digital Services Act**, the section recommends imposing binding data transparency obligations on platforms to enable independent algorithmic audits by vetted researchers. These audits would inform ongoing conduct-based obligations, including restrictions on manipulative interface designs (e.g., dark patterns) and coercive opt-in mechanisms.

The section further proposes **personalized disclosure standards** for cognitively vulnerable users—especially children and adolescents—moving beyond the FTC’s current uniform approach. These personalized requirements could be tailored based on experimental insights generated from platform-shared datasets. These reforms expand on ideas developed in the author’s prior work, including *The Policy Implications of User-Generated Data Network Effects*, 33 *Fordham Intellectual Property, Media & Entertainment Law Journal* 340 (2023); *Fostering Open Data* (forthcoming, *Berkeley Technology Law Journal*, 2025); and *User-Based Algorithmic Auditing* (forthcoming, *Theoretical Inquiries in Law*, 2025).

Finally, this section situates these proposals in a comparative international context. It evaluates recent legislative innovations such as Chile’s ban on cartoon endorsements for sugary foods, France’s prohibition on influencer promotion of high-risk products (e.g., financial services, health remedies), and Egypt’s liability enhancements based on follower reach. These models offer valuable insights into the challenges and potential of regulating the global influencer economy.

*Section III.B: Liability*

This section analyzes the legal architecture that effectively shields influencers and platforms from liability for deceptive advertising. Platforms are protected by broad statutory immunity under **Section 230 of the Communications Decency Act**, while influencers often escape accountability due to high liability thresholds in common law torts, inconsistencies across state laws, and the limited incentives for affected consumers to litigate.

To address influencer impunity, the section draws on the equitable doctrine of **unjust enrichment**, proposing that influencers who violate consumer protection laws be required to **disgorge payments** received through deceptive endorsements. In cases of willful deception, the section recommends additional liability based on tort law principles. The discussion outlines why current frameworks fail to impose accountability and offers doctrinal reforms aimed at easing the burdens of proving duty and causation. It also considers objections grounded in *caveat emptor* and First Amendment concerns. This proposal builds on the author’s forthcoming article, *Unjust Endorsement* (*University of Illinois Law Review*, 2025).

In parallel, the section proposes conditioning Section 230 immunity for platforms on compliance with substantive transparency obligations. These conditions would support algorithmic audits and provide the evidentiary foundation for further regulatory oversight. Additional recommended conditions include bans on **political microtargeting**, the maintenance of **publicly accessible digital ad archives**, and adherence to **tailored disclosure requirements** aligned with user vulnerability.

*Section III.C: Norms*

This final section explores how regulatory and liability-based reforms could restore social and industry norms that once served as informal guardrails on advertising excess. One path to normative restoration is **policy trickle-down**: enhanced financial transparency and accountability may chill excessive or performative endorsements while encouraging public skepticism. As noted earlier, studies linked to the **Physician Payments Sunshine Act**—along with initial research on influencer transparency—suggest this effect is both likely and beneficial.

A second approach involves **state-sponsored norm-building** through education and counter-advertising. Drawing on the success of California’s anti-tobacco campaigns and community initiatives, this section proposes allocating revenue from advertising taxes to fund **digital literacy programs** and **media education curricula**. It also suggests that governments partner with or reward influencers who promote public-interest messaging and fact-checking, potentially through **reputation scoring**, **micro-grants**, or other incentive structures.

*Conclusion*

This brief concluding chapter synthesizes the book’s central thesis and contributions. *Duty of Publicity* offers a novel analytical framework for understanding the legal, psychological, and institutional dynamics of influencer advertising in the social media age. While conceptually ambitious, the framework remains grounded in the real-world complexities of data-driven influence—offering a more accurate and holistic account than many prevailing approaches in law and policy.

The chapter revisits the book’s main insights and policy proposals, highlighting how they address the multi-dimensional nature of influencer advertising while remaining sensitive to core legal commitments: the protection of free speech, the calibration of liability, and the promotion of market competition. Taken together, these reforms offer a blueprint for restoring accountability and transparency in an ecosystem where influence is both pervasive and largely unregulated.

# Author Information

**Uri Y. Hacohen** is an Assistant Professor at the Faculty of Law, Tel Aviv University, where he is also a Faculty Fellow at both the Chief Justice Meir Shamgar Center for Digital Law and Innovation and the Tel Aviv University Center for AI & Data Science (TAD). He is a member of the Israeli Forum for AI and Policy at the Israel Academy of Sciences and Humanities.

Hacohen’s research and teaching span advertising, consumer protection, and intellectual property in the contexts of digital technology, health, and entertainment. His additional areas of expertise include tort law, unjust enrichment, property law, privacy law, and law and economics.

He holds an LL.B. (Magna Cum Laude) from Tel Aviv University (2012), an LL.M. from Columbia Law School (2014), where he was a Harlan Fiske Stone Scholar, and a J.S.D. from UC Berkeley School of Law (2019). He completed a postdoctoral fellowship at the Berkeley Center for Law, Economics, and Politics (LEAP) and held a research fellowship at the Center for Technology, Society & Policy (CTSP) at the UC Berkeley School of Information.

His recent relevantpublications include:

* *Unjust Endorsement* (forthcoming at the University of Illinois Law Review, 2025).
* *The Policy Implications of User-Generated Data Network Effects*, 33 Fordham Intellectual Property, Media, & Entertainment Law Journal 340 (2023).
* *User-Generated Data Network Effects and Market Competition Dynamics*, 34 Fordham Intellectual Property, Media, & Entertainment Law Journal 1 (2023).
* *Fostering Open Data* (Forthcoming at the Berkeley Journal of Law and Technology, 2025).
* *A Penny for Their Creations: Apprising Users’ Value of Copyrights in Their Social Media Content*, 36 *Berkeley Technology Law Journal* 511 (2022) (with Dr. Amit Elazari & Dr. Talia Schwartz-Maor).
* *The Shifting Economics of Influencer Sponsorship Disclosures* (work in progress, 2025).
* *Covert Marketing Manipulation: Reinforcing Disclosure Regulation for the Digital Age,* (work in progress, 2025).

# Readership

*Duty of Publicity* is primarily written for **scholars** working at the intersection of **law, media and communication studies, marketing, political economy, technology policy, and digital culture**. It will be of particular relevance to legal scholars interested in advertising regulation, consumer protection, tort and unjust enrichment, intellectual property, and platform governance. Its interdisciplinary approach—drawing from psychology, economics, and communications—will also appeal to researchers across the social sciences and humanities examining the influence economy and the role of digital platforms.

The book is also well suited for use in **upper-level undergraduate and graduate courses**, including seminars on law and technology, media and society, internet governance, behavioral law and economics, and digital marketing. It could function either as a **core text** in specialized law or media courses or as a **supplementary reading** in broader interdisciplinary syllabi.

Finally, because of its accessible writing style and topical relevance, *Duty of Publicity* may attract **nonspecialist readers** interested in how social media shapes consumer behavior, public policy, and cultural norms. Policymakers, journalists, and professionals in digital marketing and platform design will also find its analysis and proposals timely and actionable.

# Comparable Books

Digital platforms have become a rich domain for legal and interdisciplinary scholarship. Recent work has provided important insights into the digital economy, from the failures of online advertising regulation and the harms of surveillance capitalism to the monopolistic tendencies of tech markets, the evolution of influencer culture, and the risks of algorithmically mediated communication.

*Duty of Publicity* stands out in three significant ways. First, rather than focusing on a single dimension of platform power, it offers an integrated theoretical framework that captures how influencers, platforms, advertisers, algorithms, and audiences interact across legal, economic, and cultural domains. Second, it brings together historical, psychological, and economic analysis to illuminate the structure and mechanisms of influencer advertising—providing the first sustained scholarly account of its development and operation across media eras. Third, the book proposes original, empirically grounded reforms through a comparative institutional analysis, offering concrete strategies for regulatory, legal, and social intervention.

**1. *The Regulation of Social Media Influencers*, ed. Catalina Goanta and Sofia Ranchordás (Edward Elgar Publishing, 2020)**

This edited volume brings together multiple perspectives on the legal dimensions of influencer marketing. While valuable for understanding contemporary regulatory frameworks, it lacks a unifying theoretical approach. In contrast, *Duty of Publicity* offers a coherent conceptual framework that explains the interplay between influencer marketing and data-driven platform communication. It also moves beyond a solely legal focus, drawing from history, psychology, and economics to provide an interdisciplinary analysis of the influencer economy. While the Elgar volume surveys existing (mostly European) law, *Duty of Publicity* offers original policy proposals grounded in both theory and empirical research.

**2. *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*, Shoshana Zuboff (PublicAffairs, 2019)**

Zuboff’s landmark study analyzes how tech platforms extract and monetize personal data. While influential, it largely overlooks the role of influencers as key amplifiers of surveillance capitalism’s persuasive and manipulative effects. *Duty of Publicity* fills this gap by situating influencer advertising within the broader architecture of platform-driven behavioral influence and by offering legal and institutional strategies for reform.

**3. *Extremely Online: The Untold Story of Fame, Influence, and Power on the Internet*, Taylor Lorenz (Simon & Schuster, 2023)**

Lorenz presents a journalistic narrative of the rise of internet influencers and the evolution of online fame. Her work insightfully captures the cultural rebranding of “selling out” as a form of success—a theme also central to *Duty of Publicity*. However, Lorenz’s account is historical and descriptive, without theoretical modeling, legal analysis, or policy recommendations. *Duty of Publicity* complements this work by supplying the institutional critique and reform agenda that Lorenz’s cultural chronicle leaves implicit.

**4. *The Influencer Industry: The Quest for Authenticity on Social Media*, Emily Hund (Princeton University Press, 2023)**

Hund offers a sociological portrait of the influencer economy, with a focus on authenticity and labor practices. Based on interviews and cultural analysis, her work is richly descriptive but does not address the legal, regulatory, or psychological dimensions of influence. *Duty of Publicity* expands the scope of inquiry by addressing how legal institutions enable influencer practices, how they intersect with platform architecture, and how they might be reformed through comparative policy interventions.

**5. *Adcreep: The Case Against Modern Marketing*, Mark Bartholomew (Stanford University Press, 2017)**

Bartholomew provides a critical legal history of the expanding reach of advertising into public and private spaces, focusing on how law has enabled the encroachment of marketing into daily life. While *Adcreep* offers a valuable foundation for understanding the normalization of commercial influence, it pays limited attention to the digital platform economy or the unique dynamics of influencer marketing. *Duty of Publicity* builds on Bartholomew’s insights by situating influencer advertising within the architecture of platform-mediated persuasion, examining the psychological mechanisms that drive its effectiveness, and proposing a legal and institutional framework specifically designed to address its risks and regulatory gaps.

# Additional Information

# Writing Sample

As a writing sample, I am attaching an excerpt from the manuscript’s Introduction, along with two recent papers that explore key issues central to the broader project. *Unjust Endorsement* (forthcoming in the University of Illinois Law Review) examines the legal accountability of celebrity influencers. *User-Generated Data Network Effects and Market Competition Dynamics* (Fordham Intellectual Property, Media & Entertainment Law Journal) analyzes the manipulative power of data-driven advertising platforms.

Introduction Except

In 2019, Billy McFarland—whom *Vanity Fair* dubbed “the poster boy for millennial scamming”—envisioned the Fyre Festival as “a one-of-a-kind immersive experience in music, culture, art, culinary delights, and luxury.”[[2]](#footnote-3) The event, as it turned out, was a scam. In what was later described as a “post-apocalyptic nightmare,” thousands of innocent attendees were left rifling through dumped luggage to reclaim personal belongings, fighting over clusters of tents for shelter, and foraging for food. Panic-stricken, some sought medical attention; others were soaked by wind and rain and left without access to rescue, as the festival was advertised as a “cashless” event.

To build anticipation for this imaginary utopia, McFarland paid over 400 celebrities and public figures—including Chanel Iman, Bella Hadid, and Kendall Jenner (the so-called “Fyre Starters”)—to post on social media with the hashtag #fyrefestival.[[3]](#footnote-4) Jenner alone was paid $250,000 for a single Instagram post urging her 79 million followers to buy tickets, promising VIP access if they used her name.[[4]](#footnote-5) Jenner, of course, never appeared at the event. She had been notified well in advance that the festival was dangerously underprepared.[[5]](#footnote-6)

Jenner’s massive online following—cultivated through her appearances on E!’s reality series *Keeping Up with the Kardashians*—affords her extraordinary leverage. According to *Forbes*, the Kardashian/Jenner family earns more than $120 million annually, the bulk of which comes from endorsements.[[6]](#footnote-7) With a global fan base exceeding 300 million, individual family members can command between $75,000 and $300,000 per sponsored post.[[7]](#footnote-8) Yet many of these endorsements violate federal disclosure laws.[[8]](#footnote-9) The nonprofit Truth in Advertising has documented over 100 instances where Kardashian/Jenner family members failed to clearly disclose material connections in their Instagram ads.[[9]](#footnote-10)

Adam Bowen and James Monsees, founders of the e-cigarette company JUUL, followed a similar playbook when they sought to hook teens and young adults on their products. Collaborating with marketers in 2015, JUUL’s goal was to “create and manage blogger, social media and celebrity influencer engagements… to drive positive commentary and recommendations through word-of-mouth and social media channels.”[[10]](#footnote-11) Their target list included celebrities with massive teen fanbases, such as Kristen Stewart and Robert Pattinson (of *Twilight*), Jennifer Lawrence (of *The Hunger Games*), and teen influencer Tavi Gevinson, who *Rolling Stone* described in 2014 as “possibly the most influential 18-year-old in America.”[[11]](#footnote-12)

JUUL also implemented an “affiliate program,” paying influencers and bloggers who promoted JUUL on their websites, and a “referral program” rewarding customers for recruiting others.[[12]](#footnote-13) The strategy was wildly effective. On Twitter, JUUL-related posts exploded from 8,416 in 2015 to 366,786 in 2017.[[13]](#footnote-14) This rise in social media engagement mirrored JUUL’s meteoric retail growth. By November 2018, JUUL controlled 76.1% of the U.S. e-cigarette market.[[14]](#footnote-15) Its sales jumped 783% in the 52 weeks ending June 2018.[[15]](#footnote-16) Valued at $15 billion just three years after its launch, JUUL became the fastest startup to reach a $10 billion valuation—four times faster than Facebook.[[16]](#footnote-17)

Like McFarland’s campaign, JUUL’s strategy was deliberately stealthy. As Stanford researchers have explained, “[i]nfluencers contribute what appears to be independent user-generated content, which is influential, in part, due to its perceived independence from marketers.”[[17]](#footnote-18) For example, YouTuber Donny Karle (aka DonnySmoke) promoted JUUL to his 120,000 subscribers in a widely viewed “unboxing” video without disclosing his payment from the company.[[18]](#footnote-19) JUUL’s affiliate agreement even warned influencers to “clearly represent yourself and your websites as independent from juulvapor.com.”[[19]](#footnote-20)

The problem of deceptive endorsements is not new. In the late 19th century, patent medicine hawkers relied heavily on testimonials to market ineffective—and often dangerous—products.[[20]](#footnote-21) The tobacco industry followed suit, enlisting celebrities and “experts” to promote smoking.[[21]](#footnote-22) In a 1928 radio spot, Al Jolson claimed that Lucky Strike cigarettes kept him feeling “peppy.”[[22]](#footnote-23) A 1949 Viceroy ad quoted a dentist saying, “As your dentist, I would recommend Viceroys.”[[23]](#footnote-24) Another ad from 1931 depicted a doctor prescribing Chesterfields to a patient.[[24]](#footnote-25) These endorsements helped blunt rising public concern about smoking-related health risks.[[25]](#footnote-26)

Even when obviously sponsored, celebrity endorsements raise serious concerns. Most investors would assume that comedian Larry David, quarterback Tom Brady, and basketball star Steph Curry are not cryptocurrency experts.[[26]](#footnote-27) Yet when they endorsed the now-bankrupt crypto exchange FTX, their fame helped normalize the platform for millions.[[27]](#footnote-28) As Bhagamshi Kannegundla, who lost $174,000 to FTX after seeing Larry David’s Super Bowl ad, explained to CNBC: “There’s all these big-name people utilizing FTX… I thought I’d be safe.”[[28]](#footnote-29) FTX weaponized its endorsers’ ignorance as a marketing tool.[[29]](#footnote-30) Larry David’s ad portrayed him as a fool who dismisses inventions like the wheel, the fork—and FTX. Steph Curry leaned into this angle with his #notanexpert ad: “I’m not an expert, and I don’t need to be. With FTX I have everything I need to buy, sell, and trade crypto safely.”[[30]](#footnote-31)

Research has long confirmed the persuasive power of celebrity endorsements. But on social media, influencer advertising has evolved into something far more pervasive.[[31]](#footnote-32) Endorsed messages now travel instantly to millions, with followers further resharing, hashtagging, commenting, and co-creating content. One influencer—Cristiano Ronaldo, for example—can reach 1 billion followers.[[32]](#footnote-33) Algorithms amplify this reach, bots multiply it, and AI can echo it indefinitely. When Larry David’s Super Bowl ad debuted, it was just the beginning. FTX became one of the most retweeted brands, earning viral spoofs and winning USA Today’s “Most Comical” Super Bowl commercial.[[33]](#footnote-34)

Influencer content quickly loses its status as advertising. As it spreads, it becomes a meme or trend, perceived as grassroots. But in reality, social media “virality” is orchestrated.[[34]](#footnote-35) Platforms use engagement algorithms to amplify posts that will generate reactions. Brands pay to target these posts to specific users. Bots, fake followers, and phony engagement further inflate visibility.[[35]](#footnote-36) JUUL’s campaign is illustrative: nearly a year after it ended, Instagram still saw 75,442 #juul posts in just three months.[[36]](#footnote-37) JUUL sales to high schoolers jumped 78% in that same year.[[37]](#footnote-38) At FTX, nearly half of all Twitter comments referencing its tokens were created by bots, according to the Network Contagion Research Institute.[[38]](#footnote-39)

The stakes are high. Influencer campaigns can be benign—and even beneficial—but in recent years they’ve fueled serious public health crises, including teen vaping, opioid misuse, vaccine misinformation, financial fraud, and mental health challenges.

At the heart of this book lies a central paradox: fame is socially constructed, yet celebrities enjoy exclusive, legally protected control over their image, likeness, and influence. These “publicity rights,” originally intended to reward creative labor and prevent exploitation, have been radically transformed. In the platform economy, they are leveraged—by celebrities and platforms alike—for viral marketing that can mislead, manipulate, and harm.

The legal system has not kept pace with these developments. As early as 1950, the *Stanford Law Review* observed that “despite the tremendous increase in the use of endorsement advertising, the extent of the endorser’s responsibility has never been defined.”[[39]](#footnote-40) That observation remains true. Although the FTC and FCC regulate advertising, influencers face little accountability.[[40]](#footnote-41) If anything, the trend is toward expanding their rights. At the time of this writing, new legislation in Congress and several states seeks to broaden publicity rights[[41]](#footnote-42)—while responsibility for misuse remains virtually nonexistent.

*Duty of Publicity* challenges this status quo. Drawing on original empirical findings and interdisciplinary research in psychology, communication, economics, and law, this book reveals the growing misalignment between influencers’ and platforms’ commercial incentives and the broader public interest.

. . .

Experts

[**II. The Psychology and Economics of Influencer Advertising 🡪 B. Influencer Advertising in the Pre-Digital Age 🡪 2.** Psychological Manipulation 🡪 ii. Experts]

Expert influencers—referred to in the 1920s as “Men Who Know”—help advertisers bypass consumers’ natural skepticism toward advertising by lending an air of objectivity and authoritative assurance.[[42]](#footnote-43) Their professional demeanor and credentials often eclipse the commercial context of the message. These figures frequently emphasize their experience and suggest they are putting their reputations, and even their professional integrity, behind the product.[[43]](#footnote-44)

Sources seek to recruit individuals who will be perceived by the target audience as educated, credentialed, and knowledgeable.[[44]](#footnote-45) The more credible, experienced, or skilled the expert appears, the more effective their endorsement.[[45]](#footnote-46) This effect stems from a psychological process known as **internalization**, in which the audience adopts a belief or behavior based on the perceived competence of the messenger.[[46]](#footnote-47) When an expert is seen as both knowledgeable and trustworthy, their endorsement carries a persuasive weight that the sponsoring brand lacks on its own.[[47]](#footnote-48) Medical professionals—such as doctors and dentists—are quintessential examples: well-educated, ethical, and familiar, they evoke the image of a personal physician or caretaker. Remarkably, even subtle cues can trigger these psychological associations. Research by Christopher Jay Hoofnagle and Eduard Meleshinsky demonstrates that something as simple as a lab coat or a blue background in an image is enough to make audiences attribute medical authority to a spokesperson.[[48]](#footnote-49)

Advertisers have long exploited this dynamic, often pushing ethical boundaries. As detailed in Chapter I, the early history of influencer advertising is rife with examples of medical professionals endorsing ineffective or harmful products, from snake oils to patent medicines. The U.S. Food and Drug Administration (FDA) was, in part, created in response to this history. Yet even after its founding, the tobacco industry continued to feature doctors in cigarette ads. A 1931 Chesterfield ad depicted a physician writing a cigarette prescription;[[49]](#footnote-50) a 1949 Viceroy ad quoted a dentist: “As your dentist, I would recommend Viceroys!”[[50]](#footnote-51) These campaigns helped blunt growing public concern about the health risks of smoking.[[51]](#footnote-52)

**Figure 4:** Camel Cigarette Advertisement (*source: SRITA Collection*)



**Figure 5:** Chesterfield Cigarette Advertisement (*source: SRITA Collection*)



This tactic remains in use. Between 2012 and 2015, for instance, SmartClick Media LLC promoted a “Doctor Trusted” certification seal, suggesting that products had been evaluated by independent physicians—though no such review had taken place.[[52]](#footnote-53) Advertisers also conduct surveys among professionals to suggest broader expert consensus. Edward Bernays famously used this method in a campaign for Beechnut Packing Company in the 1920s. After surveying 4,500 physicians—many of whom agreed that a hearty breakfast was beneficial—he launched a public relations campaign claiming that bacon and eggs were the healthiest way to start the day.[[53]](#footnote-54) The result: a surge in bacon sales and the birth of the “all-American breakfast.”[[54]](#footnote-55)

This technique has endured. Warner-Lambert’s Trident campaign claimed “four out of five dentists recommend sugarless gum,” though the surveyed dentists were only noting that sugarless gum is preferable to sugared varieties for “gum-chewing patients,” not endorsing gum chewing per se.[[55]](#footnote-56) Camel once advertised in the *Journal of the American Medical Association* that “More doctors smoke Camels than any other brand”—a conclusion based solely on surveys of doctors who already smoked.[[56]](#footnote-57) Despite this, the mere association with the medical profession proved persuasive.

**Figure 6:** Camel Cigarette Advertisement (*source: SRITA Collection*)



In the pharmaceutical and medical device industries, companies frequently offer financial incentives—consulting fees, research grants, luxury travel, or board positions—to encourage physicians to prescribe or endorse their products.[[57]](#footnote-58) When a trusted personal physician recommends a drug, procedure, or device, patients rarely question it. Yet these incentives can create serious conflicts of interest.[[58]](#footnote-59) While some educational and research funding serves genuine scientific goals, many programs are designed to foster brand loyalty and subtly shape medical judgment. The opulence of some undisclosed gifts—lavish trips, inflated speaking fees—suggests these campaigns are intended to do more than simply educate.[[59]](#footnote-60)

Research confirms the risks. Physicians who receive industry payments are significantly more likely to prescribe the associated products.[[60]](#footnote-61) And many decline to disclose these ties, likely due to reputational concerns.[[61]](#footnote-62) A striking example involves Dr. Michael Holick, a prominent endocrinologist who championed vitamin D supplements and testing.[[62]](#footnote-63) Holick received substantial payments from supplement makers, testing labs, and even the tanning industry.[[63]](#footnote-64) His high-profile advocacy helped expand the vitamin D market nearly ninefold over a decade, though later studies cast doubt on the necessity of widespread supplementation.[[64]](#footnote-65) In another case, Bayer AG paid nearly 12,000 doctors over $2.5 million to promote Essure, a birth control device later linked to severe side effects.[[65]](#footnote-66) Following public outcry—including a Netflix documentary[[66]](#footnote-67)—and FDA scrutiny,[[67]](#footnote-68) Bayer withdrew the device from the U.S. market.[[68]](#footnote-69)

Although medical professionals are the clearest example of expert influencers, they are by no means the only ones. Personal trainers, chefs, professional athletes, and other specialists can also serve as trusted voices, depending on the context.[[69]](#footnote-70) Infomercials often feature dietitians and trainers to “educate” viewers on fitness products or regimens. Athletes, in particular, convey a powerful kind of expertise: performance-based authority. Their use of specific equipment—golf clubs, running shoes, protein powders—suggests that such products contribute to their success. This can be misleading. In many cases, star athletes earn far more from endorsements than competition and may promote products that have little bearing on performance. When Tiger Woods considered switching from Titleist to Nike clubs, critics called the move “a joke.”[[70]](#footnote-71) But Woods ultimately made the change after signing a lucrative Nike endorsement deal that dwarfed his tournament winnings.[[71]](#footnote-72) Athletes can also lend credibility to products beyond their sport. Golfer Phil Mickelson, for instance, endorses the arthritis drug Enbrel—not because he’s a medical expert, but because his condition and continued success make him a persuasive figure.[[72]](#footnote-73)

Ultimately, the credibility of an expert influencer does not depend on objective qualifications. Rather, it turns on the **perceived trustworthiness and competence** of the individual as seen by the audience.[[73]](#footnote-74) Expert status can be constructed. What matters is that the target audience believes the influencer to be credible. The skill of advertising lies in orchestrating this perception—turning skepticism into trust, and trust into persuasion.

# Full CV

Faculty: Tel-Aviv University, The Buchmann Faculty of Law.

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Google Scholar web page: <https://scholar.google.com/citations?user=AaiD8DcAAAAJ&hl=en>

TAD web page: <https://datascience.tau.ac.il/uri-hacohen>

SSRN: <https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=3219222>

**A. Education**

**2012** **LL.B.** (Magna Cum Laude), Tel Aviv University, Faculty of Law of Law, Tel Aviv, Israel.

**2014** **LL.M.** (Harlan Fiske Stone Scholar), Columbia Law School, New York City, NY.

**2019**  **J.S.D.**, UC Berkeley, School of Law, Berkeley, CA.

 *Title of Doctoral Dissertation*: Unjust Enrichment of Intellectual Property Right-Holders

 *Name of Supervisor*: Professor Peter Menell.

 *Supervising Committee*: Professor Peter Menell, Professor Mark Gergen, Professor Carl Shapiro.

**2020**  **Post-Doctorate Fellowship**, UC Berkeley, School of Law, Berkeley, CA.

 *Name of Supervisor*: Professor Robert Cooter, Professor Aaron Edlin.

**B. Academic Appointments and Professional Experience**

**2010** Bucerius Law School Program in International and Comparative Business Law, Bucerius Law School, Hamburg, Germany.

**2013** Internship & Pre-internship at Luthi & Co. Intellectual Property Law Offices.

**2014** Legal Instructor and Lecturer at the Israeli Bar Association Publishing House.

**2015** Visiting Scholar, Columbia Law School.

**2016** Instructor, Graduate Legal Research & Writing Program, Boalt Hall School of Law, UC Berkeley.

**2017** Instructor, Legal Studies, Boalt Hall School of Law, UC Berkeley.

**2017** Research Fellow, Center for Technology, Society & Policy (CTSP), School of Information, UC Berkeley.

**2019** Postdoctoral Research Fellow, The Center of Law, Economics, and Politics (LEAP), UC Berkeley.

**2020** Research Associate, Tel Aviv University, Faculty of Law of Law.

**2021-Present** Lecturer, Tel Aviv University, Faculty of Law of Law, Tel Aviv, Israel.

**2022-Present** Faculty Fellow, Chief Justice Meir Shamgar Center for Digital Law and Innovation, Tel Aviv University, Faculty of Law, Tel Aviv, Israel.

**2022-Present** Research Fellow, TAD - The Center for AI & Data Science, Tel Aviv University, Faculty of Law of Law, Tel Aviv, Israel.

**2023-Present** Research Fellow, At the Forum for AI and Policy, The Israel Academy of Science and Humanities <https://www.academy.ac.il/Branches/Branch.aspx?nodeId=796&branchId=290>

**C.1 List of Courses Taught**

**2014** Contract, Tort, Corporations (professional bar exam courses).

**2016** Research & Writing (graduate students).

**2017** Human Rights Research and Practice (undergraduate students).

**2021** Property Law; Intellectual Property Law; Artificial Intelligence, Innovation, and the Law; Technological Disruption and the Law.

**2022** Patent Law, Property Law; Intellectual Property Law, Private Law.

**2025** Law & Technology Workshop; Mock Trial.

**C.2 Participation in Committees**

**2022** Library and Computation Committee.

**2023** Admission Committee.

**D.1 Invited Papers in Scientific Meetings**

**10.8.2017** Cardozo Law School, New York City, NY, Intellectual Property Scholars Conference (IPSC): presenter (*A Penny for Their Creations – Apprising Users’ Value of Copyrights in Their Social Media Content*).

**4.5.2018** Golden Gate University Law School, San Francisco, CA, Intellectual Property Works-in-Progress Symposium: presenter (*A Penny for Their Creations – Apprising Users’ Value of Copyrights in Their Social Media Content*).

**24.3.2018** New York School of Law, New York City, NY, 8th Annual Internet Law Works-in-Progress: presenter (*A Penny for Their Creations – Apprising Users’ Value of Copyrights in Their Social Media Content*).

**9.8.2018** UC Berkeley School of Law, CA, Intellectual Property Scholars Conference (IPSC): presenter: (*Unjust Endorsement: Endorser and Platform Responsibility in the Social Media Age*).

**22.4.2021** Tel Aviv University, The 8th Privacy, Cyber, and Technology Conference: presenter (*User-Generated Data Network Effects*). Available at: <https://www.youtube.com/watch?v=ofLuZWAQ9rs>.

**20.5.2021** ATRIP Webinar, “IPR in times of crisis: Thoughts from the ATRIP-bubbles: commentator (*Prof. Rochelle C. Dreyfuss, Protecting Public Health in the Age of Pandemics: The Potential Impact of Investor-State Dispute Settlement*).

**16.6.2021** Intellectual Property in the Age of AI, Round Table, The S. Horowitz Institute for Intellectual Property, The Buchmann Faculty of Law Tel Aviv University: presenter (*AI and Social Responsibility*).

**4.8.2021** Cardozo Law School, New York City, NY, Intellectual Property Scholars Conference (IPSC): presenter (*User-Generated-Data Network Effects*).

**5.10.2021** The Israeli Forum for Intellectual Property, The Yearly Conference on Intellectual Property Law, Bar-Ilan University: Presenter (*Autumn Is Coming A Novel Liability Theory That May Kill Pharmaceutical Evergreening*).

**1.11.2021** Lab for Law, Data, and Digital Ethics, Bar-Ilan University: presenter (*User-Generated Data Network Effects*).

**22.12.2021** Intellectual Property in the Medical Space, Round Table, The S. Horowitz Institute for Intellectual Property, The Buchmann Faculty of Law Tel Aviv University: presenter: (*The Sanofi Case: Thoughts for Further Development*). Available on: <https://www.youtube.com/watch?v=zqePVxgcRB4&list=PLyD9d-D6KQ6s8ELbIOYmBGURZSjGxqDSu&index=9>.

**7.4.2022** Private Law Seminar, Tel-Aviv University, Faculty of Law: presenter (*Autumn Is Coming A Novel Liability Theory That May Kill Pharmaceutical Evergreening*).

**25.52022** Faculty Seminar, Reichman University, Faculty of Law: presenter (*Defending Fair Pharmaceutical Competition with the Law of Unjust Enrichment*).

**6.6.2022** Faculty Seminar, Tel-Aviv University, Faculty of Law, presenter (*Defending Fair Pharmaceutical Competition with the Law of Unjust Enrichment).*

**24.1.2023** Intellectual Property, Artificial Intelligence, and Big Data, The Center For Law and Business, The Department for Commercial Law, Ramat-Gan: presenter (*Generic Similarity: Formalizing Copyright's Idea/Expression Dichotomy in the Age of Image-Generated Machines).*

**27.3 2023** The Shamgar Center for Digital Law and Innovation, Artificial Intelligence Regulation: Pending Research, The Buchmann Faculty of Law, Tel Aviv University: presenting (*User-Based Algorithmic Auditing).*

**14.3.2023** The ChatGPT Revolution, Interdisciplinary Conference, Tel Aviv University: presenting (*Quantifying Copyright Scope in the Age of Expressive Machines).* Lecture available: <https://www.youtube.com/watch?v=7QfxBKQqR1k&list=PLNiWLB_wsOg5fqD03ebvyFvSnPbThLTLJ&index=8&t=3s>.

**29.3.2023** The Center for Humanities and AI, University of Haifa, The Sixth Finger – On Artists and Machines in the Age of Artificial Intelligence: presenting (*Quantifying Copyright Scope in the Age of Expressive Machines).*

**29.3.2023** Legal Scholars Roundtable on Artificial Intelligence: presenting (*Quantifying Copyright Scope in the Age of Expressive Machines).*

**15.4.2023** Northwestern Pritzker School of Law in Chicago, Illinois, PatCon: The annual Patent Conference: presenting (*Autumn is Coming: A Novel Liability Theory That May Kill Pharmaceutical Evergreening).*

**8.6.2023** Tel-Aviv University, Falling walls lab, Breaking Walls: presenting *(Breaking The Wall of Copyright Law).*

**12.6.2023** Tel-Aviv University, The Shamgar Center for Digital Law and Innovation, Artificial Intelligence Regulation, and the Limits of Impact Assessment of AI*:* presenting (“*User-Driven Algorithmic Auditing”).*

**14.6.2023** Tel-Aviv University, The S. Horowitz Institute for Intellectual Property & ALAI, Tel-Aviv University, On The Future of Copyright in the Age of Generative AI: presenting (“*Quantifying Copyright Scope in the Age of Expressive Machines”).*

**26.6.2023** Tel-Aviv University, The Pearl Cohen Conference for Law and Technology, On Artificial Intelligence: presenting *(“Quantifying Copyright Scope in the Age of Expressive Machines”).*

**5.7.2023** The Interagency Team on Artificial Intelligence, Capital Market Authority, Israeli Government: presenting *(“User-Driven Algorithmic Auditing”).*

**3.8.2023** The Intellectual Property Scholars Annual Conference (IPSC), Cardozo Law School: presenting *(“Copyright Regenerated: Harnessing GenAI to Measure Originality and Copyright Scope”).*

**12.11.2023** Faculty Seminar, Tel-Aviv University, Faculty of Law: presenting *(“Copyright Regenerated: Harnessing GenAI to Measure Originality and Copyright Scope”).*

**12.12.2023** Regulatable ML @NeurlPS 2023 Workshop: Towards Bringing the Gaps between Machine Learning Research and Regulations, New Orleans, Convention Center: presenting *(“Can Copyright be Reduced to Privacy”).* [*https://regulatableml.github.io/*](https://regulatableml.github.io/)

**1.24.2024** Google TechTalks: presenting *(“Copyright Regenerated: Harnessing GenAI to Measure Originality and Copyright Scope”),* [*https://www.youtube.com/watch?v=D7TcPV\_X6BI*](https://www.youtube.com/watch?v=D7TcPV_X6BI)*.*

**2.25.2024** Parasol Foundation International LL.M: presenting *(“Harnessing AI to inform Legal Standards”).*

**3.12.2024** 3rd ACM Computer Science And Law Symposium, Boston University Boston, MA USA: presenting *(“Not All Similarities Are Created Equal: Leveraging Data-Driven Biases to Inform GenAI Copyright Disputes”).* [ACM Symposium on Computer Science and Law (computersciencelaw.org)](https://computersciencelaw.org/)

**6.20.2024** The Israeli Law and Economics Association (ILEA), Annual Conference, Hebrew University of Jerusalem: presenting *(“The Shifting Economics of Influencer Sponsorship Disclosures”).*

**6.26.2024** Public Policy for Data Libraries, St. Augustine, Florida, Interdisciplinary Research Roundtable for Setting a Research Agenda Concerning Public Data Libraries, and Drafting a Policy Whitepaper Discussing the Main Proposals: presenting *(“Fostering Open Data”).*

**12.17.2024** AI Competition and Markets Conference, Bocconi University, Milan Italy: presenting *(“User-Based Algorithmic Auditing”).*

**2.12.2025** Computer Science Meets Law: An Interdisciplinary Workshop on Intellectual Property and Generative Artificial Intelligence, LMU Munich and TAU Law, Tel-Aviv, Israel: presenting *(“Bias as signal”).*

**3.25.2025** Reason and Decision, Interdisciplinary Research Forum at Tel-Aviv University, Israel: presenting *(“Bias as signal”).*

**D.2 Organization of Conferences and Scientific Meetings**

**2025 Feb.** Ludwig-Maximilians-Universität München and Tel Aviv University Law School, Interdisciplinary Research Workshop: *Computer Science Meets Law*, Tel-Aviv University (co-organizer with Professor Niva Elkin-Koren).

**2025 Jun.** Ludwig-Maximilians-Universität München and Tel Aviv University Law School, Interdisciplinary Research Workshop: *Computer Science Meets Law*, Ludwig-Maximilians-Universität München (co-organizer with Professor Niva Elkin-Koren).

**D.3 Reviewing Conference Submissions and Academic Articles**

**2025 Feb.** ACM Conference on Fairness, Accountability, and Transparency (FAccT 2025): reviewer.

**2024** Mishpatim Law Review‎: reviewer (“*Law and Its Effect on Pharmaceutical Shortage”*).

**E. Academic and Professional Awards**

**E.1 External Grants**

**2017** Research Fellowship from the Center for Technology, Society & Policy (CTSP), School of Information, UC Berkeley.

**2019** Postdoctoral Research Fellowship from the Center of Law, Economics, and Politics (LEAP), UC Berkeley.

**2020** Research Grant from the S. Horowitz Institute for Intellectual Property, Tel-Aviv University, The Buchmann Faculty of Law, Israel.

**2020** Submission for the Israeli Science Foundation: Covert Marketing Manipulation: Reinforcing Disclosure Regulation for the Digital Age.

**2022** Research Grant, Israel Science Foundation, Covert Marketing Manipulation: Reinforcing Disclosure Regulation for the Digital Age. 170,392 ₪.

**2022** Research Grant from the Shamgar Center for Digital Law and Innovation, The Buchmann Faculty of Law, Israel.

**2024** Research Grant, LMU-TAU Research Cooperation Program (with Professor Niva Elkin-Koren, TAU Law, and Professor Matthias Leistner). 184,075 ₪.

**2024** Research Grant from the Chief Justice Meir Shamgar Center for Digital Law and Innovation, Tel-Aviv University, The Buchmann Faculty of Law, Israel. 15,000 ₪.

**2024** TAU AI research. 20,000 ₪.

**2024** Submission for the Israeli Science Foundation: Bias as a Signal: Harnessing Large Language Models to Inform Legal Standards.

**2024** Submission for Google Grant: Bias as a Signal: Harnessing Large Language Models to Inform Legal Standards.

**2025** Submission for the Planning and Budgeting Committee of the Israeli Council for Higher Education: Bias as a Signal: Harnessing Large Language Models to Inform Legal Standards.

**2025** AI and Law Research Award, Miami Law & AI (MiLa) Law, The University of Miami School of Law (Research Award and a $2,000 honorarium).

**E.2 Academic Awards**

**2010** Dean’s List (LL.B., Tel-Aviv University, The Buchmann Faculty of Law, Israel).

**2011** Dean’s List (LL.B., Tel-Aviv University, The Buchmann Faculty of Law, Israel).

**2014** Harlan Fiske Stone Scholar (LL.M., Columbia Law School, New York City, NY).

**2020** Award, Returning Scientist, Israeli [Ministry of Aliyah and Integration](https://www.gov.il/en/departments/ministry_of_aliyah_and_integration).

**2024** The Mishael Cheshin Award for Excellence in Legal research for Junior Scholar.

**F. Student Theses and Article Reviews**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Student Name**  | **Thesis Title**  | **Degree** | **Institution**  | **Date**  |
| Eliran Pistal | Medical Data Markets and Machine learning | LLM | Faculty of Law, University of Haifa | 2022 |
| Dan Herman | Public Policy as Patentability Obstacle  | LLM | Faculty of Law, Tel-Aviv University | 2023 |
| Hofit Wasserman | AI Explainability Reconsidered: Deconstructing Explanations in Law | LLM | Faculty of Law, Tel-Aviv University | 2023 |
| Raheli Hadar- Holta | The Obstacles and Limits of Data Access in Israel  | LLM | Faculty of Law, Tel-Aviv University | 2024 |

**G. Supreme Court**

**28.12.2023** דנ"א 5679/21, דנ"א 5886/21, *סאנופי נ' אוניפארם* (בית המשפט העליון, י"ד בטבת התשפ"ד, 26.12.2023) – יותר מ-20 ציטוטים (סולברג בפסקאות: 59, 60, 61, 62, 88, 101; עמית בפסקאות: 3, 16, 19, 20, 22, 23).

בנוסף אימוץ תזת ההשבה שפותחה ב: Uri Y. Hacohen, Evergreening At Risk, 33 Harv. J. L. & Tech. 480 (2020).

**H. Media**

**22.12.2021** Hokumishpat - Channel, *Sanofi v. Unipharm*, <https://www.youtube.com/watch?v=zqePVxgcRB4>

**2.4.2023** Ynet Radio, Udi Segal & Doria Lampel Show, *On the generative AI revolution and implications for society*, available at: <https://www.ynet.co.il/radio/category/43494>.

**16.7.2023** Ofir Dor, *Orca Will Invest Millions in a Lawsuit Against Wiz Even Though Their Chances of Winning Isn’t High*, The Marker (16.7.2023), <https://www.themarker.com/technation/2023-07-16/ty-article/.highlight/00000189-5a65-de4e-adeb-ffe53faf0000>

**15.5.2024** Yariv Hemer and Ori Bercowitz, *DigitoX Podcast* (discussing GenAI copyright implications of authors and musicians), available: <https://www.youtube.com/watch?v=dNSWud6iTi0>

**24.1.2024** Google TechTalks *(Presenting: Copyright Regenerated: Harnessing GenAI to Measure Originality and Copyright Scope),* [*https://www.youtube.com/watch?v=D7TcPV\_X6BI*](https://www.youtube.com/watch?v=D7TcPV_X6BI)*.*

**25.2.2024** The Lowy International School, Tel Aviv University, Harnessing GenAI to Inform Legal Standards, <https://www.youtube.com/watch?v=YurkWQiDmZE>

**I. List of Publications**

**I.1 Article Published**

1. Uri Y. Hacohen*,* [*Evergreening At Risk*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3708799), 33 Harv. J. L. & Tech. 480 (2020) (75 pages).
2. Robert D. Cooter & Uri Y. Hacohen, [*Progress in the Useful Arts: Foundations of Patent Law in Growth Economics*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3708804), 22 Yale J.L & Tech. 191 (2020) (64 pages).
3. Uri Y. Hacohen, Amit Elazari, & Talia Schwartz-Maor, *[A Penny For Their Creations – Apprising Users’ Value of Copyrights in Their Social Media Content](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4080192)* , 36 Berkeley Tech. L. J. 511 (2022) (106 pages).
4. Uri Y. Hacohen, [*Autumn Is Coming A Novel Liability Theory That May Kill Pharmaceutical Evergreening*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3940350), 40(2) Cardozo Arts & Ent. LJ 50 (2022) (31 pages).
5. Uri Y. Hacohen, [*The Policy Implications of User-Generated Data Network Effects*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4267104), 33 Fordham Intellectual Property, Media, & Entertainment Law Journal 340 (2023) (68 pages).
6. Uri Y. Hacohen, [*User-Generated Data Network Effects and Market Competition Dynamics*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4267094), 34 Fordham Intellectual Property, Media, & Entertainment Law Journal 1 (2023) (77 pages).
7. אורי יוסף הכהן, *[הגנה על תחרות פרמצבטית באמצעות דיני עשיית עושר ולא במשפט](https://lawjournal.huji.ac.il/article/12/1902?fbclid=IwAR3r4-Zn9N0brhHUz_mCH4aYtPdJaZjUNZM8D_R4RRpSNsHeGKyEaM9qXXE)*, **משפטים נג'** (יפורסם, 2024) (60 עמוד).
8. Uri Y. Hacohen & Niva Elkin Koren, [*Copyright Regenerated: Harnessing GenAI to Measure Originality and Copyright Scope*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4530717)*,* 37(2) Harv. J. L. & Tech. 556 (2024) (53 pages).
9. Uri Y. Hacohen, [*User-Based Algorithmic Auditing*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4540163)(Forthcoming in Theoretical Inquires in Law, 2025) (24 pages).
10. Uri Y. Hacohen, Niva Elkin-Koren, Roi Livni, Shay Moran, [*Can Copyright be Reduced to Privacy?*](https://drops.dagstuhl.de/entities/document/10.4230/LIPIcs.FORC.2024.3), In 5th Symposium on Foundations of Responsible Computing (FORC 2024). Leibniz International Proceedings in Informatics (LIPIcs), Volume 295, pp. 3:1-3:18, (18 pages).
11. Uri Y. Hacohen, [*Unjust Endorsement*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5174265)(forthcoming at the University of Illinois Law Review, 2025) (67 pages).
12. Uri Y. Hacohen, [*Fostering Open Data*](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5174252)(Forthcoming at the Berkeley Journal of Law and Technology, 2025) (47 pages).

**I.2 Works in Progress**

1. Uri Y. Hacohen, & Niva Elkin-Koren, *Bias as Signal: Using Foundation Models to Inform Judicial Standards* (under review, 2025).
2. Uri Hacohen, Adi Haviv, Shahar Sarfaty, Bruria Friedman, Niva Elkin-Koren, Roi Livni, Amit Bermano, *Not All Similarities Are Created Equal Leveraging Data-Driven Biases to Inform GenAI Copyright Disputes?* (under review, 2025).
3. Uri Y. Hacohen, *Duty of Publicity: Influencer and Platform Responsibility in the Social Media Age* (manuscript, work in progress, 2025).
4. Uri Y. Hacohen, *The Shifting Economics of Influencer Sponsorship Disclosures* (work in progress, funded by The Israeli Science Foundation, 2025).
5. Uri Y. Hacohen, *Covert Marketing Manipulation: Reinforcing Disclosure Regulation for the Digital Age,* (work in progress, funded by The Israeli Science Foundation, 2025).
1. For example, the tobacco advertisements featured in the Writing Sample section below are sourced from the SRITA archive at Stanford University. As the SRITA website explains, “*As to copyright issues for tobacco advertisements, they have been reproduced with regularity in books, scholarly journals, popular magazines, and in numerous online venues for many years for purposes of comment, criticism, or parody, which may be considered transformative and thus considered fair use*.” *See* Stanford Research into the Impact of Tobacco Advertising, Stanford University, About SRITA, <https://tobacco.stanford.edu/about/> [↑](#footnote-ref-2)
2. Complaint at 5–8, Chinery et al v. Fyre Media, Inc., (2017), BC659938 [The Fyre Complaint]. [↑](#footnote-ref-3)
3. Jeff Johnson Roberts, *Celebrity Influencers Face Moment of Truth in Fyre Festival Lawsuit*, Fortune (May 7, 2017), <http://fortune.com/2017/05/07/fyre-festival-lawsuit/> (“As a slide deck leaked to Vanity Fair shows, these hired-gun celebrity influencers [known as ‘Fyre starters’] were key to selling the festival. . . all of them command millions of followers on social media.”); Bettina Mangiaracina, *Fyre Starters: Meet the 15 Stars Whose (Undisclosed) #Spon Brought the FTC's Wrath on Instagram*, Gadget Hacks (Jul. 3, 2017), <https://smartphones.gadgethacks.com/news/fyre-starters-meet-15-stars-whose-undisclosed-spon-brought-ftcs-wrath-instagram-0178217/> [↑](#footnote-ref-4)
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6. Natalie Robehmed,*Top-Earning Reality Stars 2016: Kardashians, Jenners Combine For $122.5 Million*, Forbes (Nov.16, 2016), <https://www.forbes.com/sites/natalierobehmed/2016/11/16/top-earning-reality-stars-2016-kardashians-jenners-combine-for-122-5-million/#78c0a47274d1> [↑](#footnote-ref-7)
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9. Kardashian/Jenner Database, Truth in Advertising, <https://www.truthinadvertising.org/kardashianjenner-database/>. [↑](#footnote-ref-10)
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20. Madow *supra* note\_\_\_, at 238 (noting that “[i]t is possible that the imposition of tort duties on endorsers would make celebrities somewhat more discriminating. Absent that development, however, celebrities cannot realistically be counted on to “channel” popular consumption to [consumer beneficial ends].”). *See generally* Uri Y. Hacohem *Unjust Endorsement* (forthcoming at The University of Illinois Law Review). [↑](#footnote-ref-21)
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39. See Note, *Liability of Advertising Endorsers*, 2 Stan. L. Rev. 496 (1950). [↑](#footnote-ref-40)
40. While the FTC revised its guidelines in 2009, no liability was ever imposed on endorsers. *See* Hacohen, *supra* note\_\_\_, at\_\_\_ (noting that the FTC almost never imposed liability on celebrity endorsers). [↑](#footnote-ref-41)
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42. *See* Kerry Segrave, Endorsements in Advertising, a Social History 31 (McFarland, 2005) (quoting reporter W. Livingstone Larned from 1924 describing the use of testimonial advertisements featuring knowledgeable endorsers rather than famous people); Federal Trade Commission, *Guides Concerning Use of Endorsements and Testimonials in Advertising*, 16 C.F.R. § 255.0 (d) (1990) [Endorsement guides] (“an expert is an individual, group, or institution possessing, as a result of experience, study, or training, knowledge of a particular subject, which knowledge is superior to what ordinary individuals generally acquire.”). [↑](#footnote-ref-43)
43. *See* Segrave, *supra* note\_\_, at 31 (noting that an endorsement of a locomotive engineer to a watch product is “far more than the most extravagant praise of world-wide celebrity,” because “[a]n engineer can’t take any chances when it comes to the question of time.”); James E. Maddux & Ronald W. Rogers, *Effects of source expertness, physical attractiveness, and supporting arguments on persuasion: A case of brains over beauty*, 39(2), Journal of Personality and Social Psychology 235, 236 (1980) (noting that “[a]n expert” is usually assumed to be “one who knows the correct stand on an issue, or one whose statements have been verified empirically.”); *Cf.* Endorsement guides, *supra* note\_\_, at §255.3 (a) (requiring that if an endorser is described as an “engineer,” his professional training should be related to the design and performance of the endorsement product.”); In re Leroy Gordon Cooper, Jr., 94 F.T.C. 674 (1979) (Ordering astronaut Gordon Cooper to cease endorsing an automobile engine because his training was in aerospace not automobile engineering). [↑](#footnote-ref-44)
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54. *Id*. *See also*, Karl Smallwood, *The man who hustled to make bacon for breakfast popular*, FactFiend (Jul. 24, 2018), <http://www.factfiend.com/man-hustled-make-bacon-breakfast-popular/> (last visited Oct 12, 2018); Eric Colleary, *How ‘Bacon and Eggs’ Became the American Breakfast*, The American Table (Jul. 19, 2012), <https://americantable.org/articles/how-bacon-and-eggs-became-the-american-breakfast/> (last visited Oct 17, 2018). [↑](#footnote-ref-55)
55. Cecil Adams, *What does the 5th recommend?*, The Straight Dope (Nov. 21, 1980), <https://www.straightdope.com/columns/read/165/4-out-of-5-dentists-recommend-sugarless-gum-what-does-the-5th-recommend/> (last visited Oct 17, 2018). *See also* Dan Lewis, *Who Was the Fifth Dentist — That Didn’t Recommend Trident?*, Now I Know (Jul. 6, 2017), <http://nowiknow.com/who-was-the-fifth-dentist-that-didnt-recommend-trident/> (last visited Oct 17, 2018). [↑](#footnote-ref-56)
56. Jacopo Prisco, *How designers weaved smoking into American culture,* CNN Style (Apr. 6, 2018), <https://www.cnn.com/style/article/alcohol-cigarette-vintage-ads/index.html> (last visited Apr 7, 2018). *See also* Robert Klara, *Throwback Thursday: When Doctors Prescribed “Healthy” Cigarette Brands*, Adweek (Jun.18, 2015), <https://www.adweek.com/brand-marketing/throwback-thursday-when-doctors-prescribed-healthy-cigarette-brands-165404/> (last visited Oct 24, 2018) (noting that, “It wasn’t even sure that the study really endorsed Camel among those who smoked other brands because William Esty Co., R.J. Reynolds’ ad agency which solicited the survey for the Camel cigarettes campaign also compensated the participating doctors with free cartons of Camel cigarettes.”). [↑](#footnote-ref-57)
57. In yet a further use of advertising manipulation, pharmaceutical companies even use college cheerleaders as sales representatives *See* Stephanie Saul, *Gimme an Rx! Cheerleaders Pep Up Drug Sales, A1*, N.Y. Times (Nov. 28, 2005). [↑](#footnote-ref-58)
58. The British Medical Journal, for example, criticized patented medicines while, at the same time, ran advertisements for them. *See* Lori Loeb, *Doctors and Patent Medicines in Modern Britain: Professionalism and Consumerism*, 33 Albion: A Quarterly Journal Concerned with British Studies 404–425 (2001) (“If the British Medical Association could not resisted the advertising revenue derived from patent medicines, it was equally true that many doctors could not resisted recommending patent medicines to patients.”); Edward C Halperin, Paul Hutchison, & Robert C Barrier Jr, *A population-based study of the prevalence and influence of gifts to radiation oncologists from pharmaceutical companies and medical equipment manufacturers*, 59(5) Int J Radiat Oncol Biol Phys. 1477 (2004) (finding that “[a]lthough each physician is likely to consider himself or herself immune from being influenced by gift giving, he or she is suspicious that the ‘next person’ is influenced.”). [↑](#footnote-ref-59)
59. *See, e.g.,* Kirsten E Austad et al., *Changing interactions between physician trainees and the pharmaceutical industry: a national survey*, 28(8) J Gen Intern Med, 1064 (2013) (finding that “[d]espite recent policy changes, a substantial number of trainees continue to receive gifts from pharmaceutical representatives.”). [↑](#footnote-ref-60)
60. *See e.g.,* Ashley Wazana, *Physicians and the pharmaceutical industry: is a gift ever just a gift?,* 283(3) JAMA 373 (2000) (finding that “[t]he present extent of physician-industry interactions appears to affect prescribing and professional behavior”); Aaron Philip Mitchell, Aaron Winn, & Stacie Dusetzina, *Pharmaceutical industry payments and oncologist drug selection,* 35(15) Journal of Clinical Oncology 6510 (2017) (finding that, “[r]eceipt of general payments from pharmaceutical companies is associated with increased prescribing of those companies’ drugs.”); William Fleischman et. al., *Association between payments from manufacturers of pharmaceuticals to physicians and regional prescribing: cross sectional ecological study*, 354 BMJ 4189 (2016) (similar); Susan F. Wood et al., *Influence of pharmaceutical marketing on Medicare prescriptions in the District of Columbia*, 12(10) PLoS ONE e0186060 (2017) (similar); James S. Yeh et al., *Association of Industry Payments to Physicians With the Prescribing of Brand-name Statins in Massachusetts*, 176 JAMA Intern Med 763 (2016) (similar). [↑](#footnote-ref-61)
61. *See* Charles Ornstein & Katie Thomas, *Top Cancer Researcher Fails to Disclose Corporate Financial Ties in Major Research Journals,* The New York Times, (Sep. 13, 2018) (reporting that one of the world’s top breast cancer doctors routinely failed to disclose millions of dollars in payments from drug companies to support his research), <https://www.nytimes.com/2018/09/08/health/jose-baselga-cancer-memorial-sloan-kettering.html> (last visited Sep 28, 2018); Katie Thomas & Charles Ornstein, *MSK Cancer Center Orders Staff to ‘Do a Better Job’ of Disclosing Industry Ties*, The New York Times, (Sep. 14, 2018), <https://www.nytimes.com/2018/09/09/health/cancer-memorial-sloan-kettering-disclosure.html> (last visited Sep 28, 2018) (same). [↑](#footnote-ref-62)
62. *See* Liz Szabo, *Vitamin D, the Sunshine Supplement, Has Shadowy Money Behind It*, The New York Times (Aug. 18, 2018), August 18, 2018, <https://www.nytimes.com/2018/08/18/business/vitamin-d-michael-holick.html> (last visited Sep 28, 2018). [↑](#footnote-ref-63)
63. *Id*. at\_\_. [↑](#footnote-ref-64)
64. *Id*. at\_\_. *See generally* Michael F. Holick, et. al., *Evaluation, Treatment, and Prevention of Vitamin D Deficiency: an Endocrine Society Clinical Practice Guideline*, 96(7) J. Clinical Endocrinology & Metabolism, 1911 (2011). [↑](#footnote-ref-65)
65. *See* Elizabeth Cohen & Aaron Kessler, *Bayer paid doctors millions for questionable birth control device*, CNN (Jul. 28, 2018), <https://www.cnn.com/2018/07/27/health/essure-bayer-doctor-payments-eprise/index.html>. [↑](#footnote-ref-66)
66. Netflix, The Bleeding Edge, <https://www.netflix.com/title/80170862>. [↑](#footnote-ref-67)
67. U.S. FDA, FDA Activities: Essure, <https://www.fda.gov/medicaldevices/productsandmedicalprocedures/implantsandprosthetics/essurepermanentbirthcontrol/ucm452254.htm>. [↑](#footnote-ref-68)
68. *See* Bayer Press Release , Bayer to voluntarily discontinue U.S. sales of Essure at end of 2018 for business reasons (Jul. 20, 2018), <https://www.bayer.us/en/newsroom/press-releases/article/?id=123229>. [↑](#footnote-ref-69)
69. Segrave, *supra* note\_\_ at 31 (noting that advertisers have used factory workers, nurses, and engineers as expert endorsers for over the years). [↑](#footnote-ref-70)
70. David Teel, *Woods’ Switch to Nike from Titleist Would Be a Joke*, Daily Press (May 24, 2000), <https://www.dailypress.com/news/dp-xpm-20000524-2000-05-24-0005240026-story.html>. [↑](#footnote-ref-71)
71. *See* Lisa DiCarlo, *Six Degrees Of Tiger Woods*, Forbes (Mar. 18, 2004) (pegging the multi-year Nike-Tiger Woods endorsement deal entered into in 2000 at $105 million), <https://www.forbes.com/2004/03/18/cx_ld_0318nike.html#204c9d744bd8>; Richard Thomaselli, *Dream Endorser: Tiger Woods as a Giant of Marketing ROI—Golf Superstar May Be History’s Most Effective Product Spokesperson*, AdAge (Sep. 24, 2006) (“In 1996, Nike signed Tiger Woods to an endorsement deal, mostly for apparel. In 1998, the company decided to create Nike Golf. In 2000, Mr. Woods began playing with a Nike ball. In 2002, he switched to Nike clubs. ¶ This year, Nike Golf became the fourth-largest equipment retailer in the $5.8 billion golf-equipment market.”), <https://adage.com/article/news/dream-endorser-tiger-woods-a-giant-marketing-roi/112039/> [↑](#footnote-ref-72)
72. Phil Mickelson’s Psoriatic Arthritis Story - Enbrel® (etanercept), <https://www.enbrel.com/psoriatic-arthritis/phil-mickelsons-story> (last visited Oct 16, 2018) (“I have been diligent about taking my treatment and have followed my rheumatologist’s recommendations to improve my overall health to help me stay ‘on course’ both professionally and at home. I've continued to play golf and have been able to keep doing fun things with my family.”) [↑](#footnote-ref-73)
73. Ohanian*, supra* note\_\_, at 46 (strengthening this point). Thus, under FTC’s Endorsement Guides, a commercial endorsement exists whenever consumers *are likely to believe* that an endorsement was made (even if the endorsement does not represent the influencer’s real views). Endorsement Guides, *supra* note\_\_, Section 255.0, example 4 (noting that “attribution of the underlying views to the [influencer] brings the advertisement within the definition of an endorsement.”). [↑](#footnote-ref-74)