



Joint FAQs on the 2021 Influencer Waiver

1. Q: What if the Influencer is a SAG-AFTRA member?
A: *You may utilize the 2021 Influencer Waiver for union members or non-union members who are creating Influencer-Produced Sponsored Content. You should be sure to file the proper paperwork for non-union members (Station 12, Taft Hartley), but like the Low Budget Digital Waiver, there should be no fines.*
2. Q: Does the waiver allow us to ask for exclusivity from the Influencers?
A: *Yes. The parties can specifically bargain for exclusivity – meaning that it is not automatic unless you specifically discuss it and negotiate it with the Influencer.*
3. Q: Can the Influencer-Produced Sponsored Content include people other than the Influencer?
A: *Yes. You should consult with your legal counsel regarding how to draft your Influencer agreement to address payment and rights of publicity.*
4. Q: Can I use the waiver if the influencer-Produced Sponsored Content will be used in paid digital media?
A: *Yes. Influencer-Produced Sponsored Content may be used in paid social advertising (e.g., sponsored posts, boosted posts, and through whitelisting). For use in other types of paid digital advertising (e.g., pre-roll, banner ads, ads on third-party websites), you must pay the additional Internet or New Media use (as applicable) at no less than scale under the Commercials Contract.*
5. Q: How do we engage and pay for use of the Influencer-Produced Sponsored Content in an industrial manner?
A: *If you negotiated for industrial use in the Influencer's multi-service contract, no additional payment is due. If you did not negotiate for industrial use, you must pay the additional use due at no less than scale under the Commercials Contract and amend the Influencer's agreement to add the right to industrial use payment and pay the required P&H.*
6. Q: If we use Influencer-Produced Sponsored Content in media other than what the waiver includes (e.g., industrial, pre-roll, television, etc.), can we apply the use fees to the amount guaranteed to the Influencer?
A: *Yes. However, as with any multi-service contract, you must make sure that the use fees that you apply do not exceed the amount of compensation allocated to covered services. In that event, you would either have to pay out the use fees in addition OR modify the amount of compensation allocated to covered services to accommodate the application of the use fees – just like you would with any multi-service contract.*
7. Q: Can the agency or advertiser edit the Influencer-Produced Sponsored Content?
A: *Yes, the agency and/or advertiser may mechanically edit (aka lift) the Influencer-Produced Sponsored Content to create shorter versions that are used in the same media permitted hereunder.*