



CMS Scotland - Kernel

Endorsement to Enforcement: Legal consideration benefits brand partnerships

The shift away from traditional forms of advertising towards social media is driving a huge increase in the use of online influencers and strategic brand partnerships. Especially where advertisers are targeting Millennial and Gen Z consumers, who are often more engaged with digital content.

These increasingly popular means of marketing can be highly cost-effective in reaching consumers. However, they do raise key commercial and legal challenges.

Strategic brand partnerships are most effective when they bring together brands with complementary values. We have seen this in recent collaborations involving thriving Scottish food and drink brands. Andy Murray has been appointed as the first ever brand ambassador for Walkers Shortbread, promoting "Scotland at its finest". And RapsCALLION Soda collaborated with Scotland's first alcohol free spirit, Feragaia, for Sober October.

Such collaborations, which should always be underpinned by clear and robust legal agreements, are most likely to succeed when there is strong brand image and value alignment. Marks & Spencer's partnership with the Scottish FA, on the "Eat Well, Play Well" campaign, is another strong example. The campaign used the influence of "Scottish footballing heroes" to showcase their shared commitment in helping families make healthier choices.

With the rise of online influencers, advertisers need to adapt to new rules of engagement. In the Scottish hospitality industry, "foodie" social media accounts are increasingly effective at marketing. Partnering with influencers, by

offering free food or payment in exchange for social media content, has therefore become a common marketing strategy. While brand-owners would typically want sign-off on content, such collaborations work best where the storytelling conveyed by the influencer is authentic. To achieve this balance, a contract setting out objectives, outputs, approval processes, and methods of monitoring return on investment is essential.

When promotional material is created, it is also important to implement advance agreements clarifying who owns that content. When a brand ambassador or celebrity influencer is engaged, there is the further issue of image rights to be addressed. Influencers will rightly want assurances that they retain rights to their own image.

For example, Harrison Ford has been appointed as brand ambassador for Glenmorangie whisky. David Tennant and Emile Sandé created a song and music video to promote The Macallan's legacy. And Tunnock's partnered with Alex Norton for a series of adverts investigating "criminal" shrinkflation in their competitors' brands. There is little doubt that the stars will have been afforded appropriate controls over use of their image and other intellectual property.

CMS Scotland - Kernel

Legal compliance and having appropriate liability provisions in place are other key considerations, as UK ads must meet advertising standards, be clearly identifiable as advertisements, and comply with consumer protection laws.

Finally, it is highly advisable to put legal protections in place in the event of one party wanting to end a collaboration. Public perception can change dramatically, with negative publicity turning what was a positive association into a toxic one overnight. Putting in place clear rights to quickly terminate a brand or influencer partnership is therefore essential, along with rights to take remedial action, including removing posts.

Engaging with wider audiences through brand partnerships and online influencers provides an exciting opportunity. Ensuring key risks are appropriately addressed is the key to a long and successful partnership.

Contact us



Kimberley Cross

Senior Associate

T +44 141 304 6161

E kimberley.cross@cms-cmno.com

Kernel is designed to support you on current legal issues affecting the Scottish Food & Drink industry and provide regular updates on key developments. To view the full Kernel series, please click here: [Kernel 2025 | Food & drink series | CMS Scotland](#)