SILENCING THE STREET: SEBI'S FINFLUENCER CRACKDOWN, FREE SPEECH, AND THE ILLITERACY IT LEAVES BEHIND

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A Critical Examination of the Constitutional and Regulatory Dimensions of India's Financial Influencer Regulatory Framework

ABSTRACT

The Securities and Exchange Board of India's (SEBI) recent crackdown on financial influencers, including the December 2025 order that impounded ₹546 crore from financial influencer (finfluencer) Avadhut Sathe and his training academy, has largely been interpreted as a move to protect investors. This paper contends that the same crackdown imposes an under-discussed constitutional price, one that is unmentioned by the mainstream commentary on the topic. Not a single word of that tale of bad faith or fraud does more to illuminate the structural vacuum that India has today with 1300 RIA's, and 1.4 billion people. The paper starts with the August 2023 Consultation Paper and then shows how this doctrine evolved from regulating conduct norms to speech norms in the 2024 Intermediaries (Amendment) Regulations and finally in the January 2025 three-month data lag. The paper demonstrates that SEBI's content-based restrictions on financial speech are tricky to reconcile with the protection guaranteed under Article 19(1)(a) of the Constitution, and examines the Sathe proceedings in this regard, which saw the Securities Appellate Tribunal reducing the impounded sum to the extent of contestability of the advice-education boundary even in SEBI's flagship enforcement case. The paper draws lessons from two regulatory models: the Australian supervised-inclusion licensing model and the UK's platform-accountability model, to argue that finfluencer regulation can occur in three ways: speaker, content, and channel, but can still not stifle legitimate financial education. It recommends a fourth, largely untouched path: the regulator getting into the information game by being a credible communicator in the vein of the Reserve Bank of India's "RBI Kehta Hai" initiative and funding from the Investor Education and Protection Fund. The paper ends with three concrete reforms: first, a statutory safe harbour for financial education; second, a lighter-touch tier of educator registration; and third, an institutionalized financial education SEBI public-communication mandate to shift from exclusion to supervised inclusion and/or reactive enforcement to proactive empowerment.

Keywords: SEBI; finfluencers; Article 19(1)(a); freedom of speech and expression; proportionality doctrine; chilling effect; investor education; comparative securities regulation; financial literacy; regulatory overreach.

Introduction

On 4 December 2025, the Securities and Exchange Board of India (SEBI) took action against one of the top stock market educators & the training academy, Avadhut Sathe, for allegedly providing actionable tips, fooling retail investors for monetary gains & manipulating the market.

The Securities and Exchange Board of India (SEBI) argues that Sathe and his academy made over a whopping ₹600 crore by recruiting 3 lakh participants and providing investment guidance and share recommendations without their prior approval, earning a profit from the academy's courses without maintaining transparency.[1] The Securities and Exchange Board of India (SEBI) says Sathe and his academy made money of over ₹600 crore from 3 lakh participants, operating without proper regulatory clearance as research analysts, giving investment advice and share recommendations without prior approval, and freezing the account of Sathe and his academy and impounding a sum of ₹546 crore as the unlawful income on the sale of the course.[2] But Sathe had challenged the order with the SAT (Securities Appellate Tribunal), which said that he was just a financial trainer whose job was to educate people on financial literacy using live stock examples to instruct them about the theory of trading.

The Tribunal took a middle ground and reduced the impounded sum by almost 10 times to ₹100 crore, while also extending the investigation window for SEBI. Weeks later, SEBI tied up with Google to launch an AI tracker system that automatically identifies finfluencers that violate the

[1] NDTV News Desk, '₹600 cr Teaching Trading, ₹6 cr Lost Doing It: The Curious Case of Avadhut Sathe' (NDTV, 7 December 2025) https://www.ndtv.com/business-news/600-cr-teaching-trading-6-cr-lost-doing-it-the-curious-case-of-avadhut-sathe-9 765578

[2] Who Is Avadhut Sathe? The Techie Trading Guru, and Why SEBI's ₹500 Crore Recovery Order Is a Wake-Up Call for Investors and Finfluencers' *The Economic Times* (5 December 2025) https://economictimes.indiatimes.com/news/new-updates/who-is-avadhut-sathe-the-techie-trading-guru-and-why-se bis-rs-500-crore-recovery-order-is-a-wake-up-call-for-investors-and-finfluencers/articleshow/125780062.cms

guidelines and identifies 1.33 lakh misleading posts on social media in a fiscal year.[3] This brings to the fore a question which has never been posed explicitly by a mainstream comment piece: *As SEBI tries to throttle the fraudster, does it also throttle the real educator, leaving the investor with no credible voice to call out or appeal to?*

There are now around 1,300 Registered Investment Advisors (RIAs) in India for 1.4 billion people. As per data, the number of new demat accounts has been increasing over the years, especially in 2020-2021, when more than 14.2 million new demat accounts were opened by first-generation retail investors during the COVID lockdowns.[4] These were people who had savings, cellphones, and the Internet, but little financial education. This surge revealed millions of all-new investors to unregulated financial content because the licensed advisory infrastructure was never built to provide them with the scale they needed. To become an RIA, one needs a post-graduate or professional qualification, especially in finance, a minimum net worth of Rs 5 lakh, and a mandatory NISM certification.[5] This is a strict qualification programme specifically for institutional advisers, and not for a schoolteacher from Raipur who has a grasp of the markets and wants to tell about them to her neighbours.[6]

This structure has a vacuum inside. If there is no formal system of advisors in place and the market is also expanding, this will be filled by informal educators. SEBI's registration check did not deter finfluencers; it just meant that they would come out of the regulatory ambit, where SEBI can no longer reach them.[7] To be sure, SEBI's apprehensions are not speculative; in a new and more digital securities market, unregistered participants have an unprecedented ability to sway investment decisions, affect market integrity, and take advantage of imbalanced information to gain an unfair edge in the transactions that follow.[8] However, a rule-based

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[3] SAT Grants Partial Relief to Avadhut Sathe, Orders ₹100 Crore Deposit' *The Hindu* (2026) https://www.thehindu.com/business/sat-grants-partial-relief-to-avadhut-sathe-orders-100-crore-deposit/article705397 74.ece

[4] National Securities Depository Ltd, *Annual Report 2021–22* (NSDL 2022).

[5] Securities and Exchange Board of India (Investment Advisers) Regulations 2013, regs 7–8; Hari Dwivedi, 'Do's and Don'ts for Investment Advisors' (Vinod Kothari Consultants, 23 September 2023) https://vinodkothari.com/2023/09/dos-and-donts-for-investment-advisors/

[6] Securities and Exchange Board of India (Investment Advisers) Regulations 2013; Dheeraj Agrawal, 'A Study on Role of Financial Advisor and Investor Behavior towards Mutual Fund Industry in India' (2017) 8(2) *Asian Journal of Management* 267.

[7] Arif Shaikh and others, 'Financial Advisors Role in Influencing Investment Decisions: An Empirical Study' (2022) (1) Jaipuria International Journal of Management Research 58; OECD, Finfluencers: The New Face of Financial Advice? (OECD 2024); International Organization of Securities Commissions, Retail Market Conduct Task Force Final Report on Finfluencers (IOSCO 2024).

[8] OECD, *Finfluencers: The New Face of Financial Advice?* (OECD 2024); International Organization of Securities Commissions, *Retail Market Conduct Task Force Final Report on Finfluencers* (IOSCO 2024).

regulatory approach, based largely on content restrictions, surveillance and exclusionary measures, may have the unintended effect of restricting legal and legitimate financial education, while at the same time punishing the wrong conduct it aims to prevent, posing complex challenges to free expression, overreach and the chilling effect of uncertainty. A more sustainable solution might, therefore, be not only to become more expansive in terms of the number of enforcement measures, but also to make more extensive the use of clear educational safe harbours, supervised inclusion inside the regulatory perimeter, and to define a communication-based approach to investor protection, in which credible public information is fundamental instead of being a secondary duty of the regulators.

The Crackdown and Its Constitutional Shadow

Democratised Markets and the Rise of Social-Media Investing

COVID-19 has led to a dramatic rise in social media use, and influencers have leveraged this opportunity by creating a new commercial model that gives brands and companies multiple ways to communicate with consumers and market their products.[9] According to Forbes, the active social media penetration in India is 33.4% of the population, and Internet usage is a daily habit.[10] Statista's research on social media usage in the years 2021 to 2024 showed that most people in the global Gen Z generation, as well as a significant portion of millennials, use social media as their main source of information when it comes to retail investments.[11] Digital marketing also saw a boom during the pandemic, as the volume of online traffic grew with both new and existing users coming aboard, including people new to investing.[12] This rise is attributed to the growing availability of trading applications by the new-age brokerages. Financial markets were easy to navigate, and the short-format content changed the course of retail investment, making it more diverse and accessible, including non-traditional products like cryptocurrencies, alternative investment funds, and peer-to-peer lending platforms, as

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[9] Rahul De and others, 'Impact of Digital Surge During Covid-19 Pandemic: A Viewpoint on Research and Practice' (2020) 55 *International Journal of Information Management* 102171.
[10] Belle Wong and Ashika Jain, 'Top Social Media Statistics and Trends' (Forbes Advisor, 6 February 2024) https://www.forbes.com/advisor/in/business/social-media-statistics/
[11] Statista, 'Share of Gen Z and Millennials Using Social Media as a Source of Investment Information' (2024).
[12] Angela C Lynos and Josephine Kass-Hanna, 'The Evolution of Financial Services in the Digital Age' (ResearchGate, 2023)

opposed to conventional stocks.[13] But it was here that SEBI's eye finally fell.

Regulating the Ecosystem: SEBI's Evolving Response

The regulatory body voiced its concerns and acknowledged the need to limit such unregulated content. On 25 August 2023, SEBI issued a consultation paper on the issues relating to malpractices being committed by finfluencers. To combat this, the paper suggested that registered persons or entities should not be permitted to interact with such finfluencers for promoting securities and services and that they should also be barred from using any confidential information. To this end, SEBI had proposed a middle ground by arguing that even if the former were registered, they should not be permitted to interact with such finfluencers for promoting securities and services, and that they should also be barred from using any confidential information.[14] Therefore, instead of finfluencers, SEBI decided to regulate the ecology of finfluencers, thus leaving the cause of the harm unaddressed.[15] In the consultation paper, it had been suggested that the regulated entities should not be allowed to pay any commission or trailing fee for customers who come through influencer endorsements. Further, SEBI exhorted the registered intermediaries and entities to take proactive measures, not just distancing themselves, but also taking suitable measures such as engaging enforcement agencies and even filing cases under section 420 of the Indian Penal Code.[16] At its heart, the paper is an attempt to curb market manipulation by these ‘finfluencers', but it doesn't touch on the consequences for the securities watchdog if the publication of content by a finfluencer violates the guidelines of the ASCI or the consultation paper. It would be hard to block content that is in violation of the IT Act, 2000, through the IT Act,[17] and it would be challenging to enforce the proposed consultation paper efficiently. This creates a 'no man's land' where SEBI is able to see the harm, but is unable to have remedies under statute that directly alleviate the harm.[18] When the necessary actions and procedures are done, the damage, especially to the

[13] Panti Mehta Kadakia, ‘Influencers Need to Become Professional, Organised and Know the Law: ASCI CEO’ (Forbes India, 5 July 2023) https://www.forbesindia.com/article/leadership/influencers-need-to-become-professional-organised-and-know-the-la w-asci-ceo/86363/1

[14] Securities and Exchange Board of India, *Consultation Paper on Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities (including Finfluencers)* (25 August 2023) https://www.sebi.gov.in/reports-and-statistics/reports/aug-2023/consultation-paper-on-association-of-sebi-registeredintermediaries-regulated-entities-with-unregistered-entities-including-finfluencers-_75932.html

[15] International Organization of Securities Commissions, *Final Report on Finfluencers* (IOSCO 2025)

[16] Indian Penal Code 1860, s 420.

[17] Information Technology Act 2000, Act No 21 of 2000.

[18] SEBI's Proposed Regulations on Finfluencers: Navigating Unresolved Practicalities' (IndiaCorpLaw, 11 September 2023) https://indiacorplaw.in/2023/09/11/sebis-proposed-regulations-on-finfluencers-navigating-unresolved-practicalities/

retail investors, is already irreversible.

The regulatory framework for finfluencers has undergone a major change with the issuance of the SEBI (Intermediaries) Amendment Regulations, 2024,[19] and the accompanying Circular in January 2025.[20] Under the Amendment to the Regulations, 2024, the SEBI Regulations on Regulation of Securities and Exchange Markets (Intermediary Guidelines) 2015 were amended, and what used to be considered guidance became a mandatory ban on SEBI-regulated intermediaries from having a commercial relationship with any unregistered entity involved in any securities-related activity, including through referrals, revenue sharing, and promotional activities. The 2025 Circular amended the regulations by banning unregistered persons from making any assertions about investment performance and by limiting the use of market data to that which has a prescribed time lag. Overall, these measures are part of SEBI's efforts to hold broader accountability for the finfluencer ecosystem, rather than individual finfluencers. The framework acknowledges that current securities markets have increasingly come to be shaped by decisions about securities investment by digital creators and social media platforms rather than by traditional financial intermediaries. These reforms also point to a basic regulatory paradox: the more investment is put into digital financial content monitoring, the more investment is needed to protect investors, but the uncertainty of how to define financial education, market commentary, and regulated financial information will remain high.[21] In the digital age, the line between the information content of news and the author's personal opinion, and between information and investment advice, has become very murky, and it's hard to know how to address the landscape of communications in today's world.[22] It's not just an issue of enforcement for the long-term success of SEBI's approach; it's about the creation of standards of principled standards, which can help to differentiate between investor education and activities that would effectively come under the definition of unregistered advisory or research analyst services. The framework acknowledges that current securities markets have increasingly come to be shaped by decisions about securities investment by digital creators and social media platforms rather than by traditional financial intermediaries. These reforms also

[19] Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations 2024.

[20] Securities and Exchange Board of India, Circular No SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2025/11, 'Details/Clarifications on Provisions Related to Association of Persons Regulated by the Board with Persons Engaged in Unregulated Activities' (29 January 2025).

[21] Abhinav Tyagi, ‘SEBI’s Finfluencer Legal Framework: Gaps in Enforcement and Investor Education’ (IndiaCorpLaw, 21 August 2024) https://indiacorplaw.in/2024/08/21/sebis-finfluencer-legal-framework-gaps-in-enforcement-and-investor-education

[22] Aditi Gupta, ‘Regulating Financial Influencers in India: Challenges and Possibilities’ (National Law School Business Law Review) https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1395&context=nlsblr

point to a basic regulatory paradox: the more investment is put into digital financial content monitoring, the more investment is needed to protect investors, but the uncertainty of how to define financial education, market commentary, and regulated financial information will remain high. In the digital age, the line between the information content of news and the author's personal opinion, and between information and investment advice, has become very murky, and it's hard to know how to address the landscape of communications in today's world.[23] It's not just an issue of enforcement for the long-term success of SEBI's approach; it's about the creation of standards of principled standards, which can help to differentiate between investor education and activities that would effectively come under the definition of unregistered advisory or research analyst services.

When Investor Protection Meets Free Expression

The SEBI, in its 2025 circular, is taking things a step further, restricting information based on content. The January Circular not only controls who speaks, but it also controls what is said. It bans anyone under the "three-month lag rule" from citing market data, price changes, or security performance less than 3 months old from the market by those who are not registered. This is a change of paradigm from the current licensing-based scheme, which focuses on who can give investment advice, to one that focuses on what can be said, or speech regulation. Thus, the content and the timing of the information transmitted during the speech are more important than who is delivering the speech.

The separation between regulating conduct and regulating speech itself is further supported by the Supreme Court's holding in *Secretary, Ministry of Information & Broadcasting v. Cricket Association of Bengal*,[24] which observed that in order to justify restrictions on the content of the medium of communication, the regulating of that interest has to be the least intrusive method available and must not be regulating speech, but only content. Each of the steps outlined in the above, from the restriction of commercial association to the restriction of compensation structures to the restriction of the content of communication, is a step into a deeper intrusion, and the Court warned against these deeper and deeper intrusions without showing that they were strictly necessary.

[23] OECD, *Consumer Finance Risk Monitor 2024* (OECD 2024).

[24] *Secretary, Ministry of Information & Broadcasting v Cricket Association of Bengal* (1995) 2 SCC 161.

In the context of the case of *Tata Press Ltd. v. MTNL*,[25] the constitutional aspect can be understood from the regulations imposed on finfluencers. The Supreme Court has ruled that commercial speech is well protected under Article 19(1)(a) and that there is also a right of consumers to receive such information.[26] In *Indian Express newspapers v Union of India*,[27] the Court has extended this facet of the right to include the right of citizens to receive information, as well as the right of the people to receive information, and it has said that restrictions on the flow of information to the citizenry are subject to special scrutiny. In this instance, the three-month lag rule is not only limiting the speech of the "finfluencer" but also limiting the timeliness of information available to the retail investors the regulation seeks to protect: in this case, those who are most in need of information may find themselves relying on outdated information at the time they need it the most. Furthermore, financial information delivered via digital channels also has an educational function, since it offers information on the market, trading strategies, and advice on investments, promoting the dissemination of commercial information among consumers, making them better informed to make better-informed decisions.[28] The Court warned that an overly broad interpretation could not only limit the freedom of expression of the speaker, but also the investor's right to information that is required to make sound economic choices.[29] The real regulatory challenge is not to stifle all financial speech, but to distinguish misleading investment recommendations from financial information of value, which the three-month lag rule does not do because it does not constrain the time for information to be accessed, only the time it's provided.

The three-month lag rule can be tested much better using the proportionality test laid down by the Supreme Court in *Modern Dental College & Research Centre v. State of Madhya Pradesh*,[30] which was later enshrined in *K.S. Puttaswamy v. Union of India*.[31] Within this framework, a restriction upon a fundamental right will be allowed to stand where it meets four cumulative conditions: First, it must be in pursuit of a legitimate state aim; second, the restriction must have a rational connection with the aim; third, there must be no less burdensome alternative that will achieve the same aim; and forth, the restriction must provide

[25] *Tata Press Ltd v MTNL* (1995) 5 SCC 139.
[26] Constitution of India 1950, art 19(1)(a).
[27] *Indian Express Newspapers (Bombay) Pvt Ltd v Union of India* (1985) 1 SCC 641.
[28] CFA Institute Research and Policy Center, Clicks & Credibility: Finfluencers and Investor Trust (CFA Institute 2025) https://rpc.cfainstitute.org/research/surveys/2025/clicks-and-credibility
[29] Gautam Bhatia, Offend, Shock, or Disturb: Free Speech under the Indian Constitution (OUP 2016).
[30] Modern Dental College & Research Centre v State of Madhya Pradesh (2016) 7 SCC 353.
[31] 31 KS Puttaswamy v Union of India (2017) 10 SCC 1.

the necessary balance between the elements involved.[32]

The first requirement is easily met. Protection of investors in a securities market that is increasingly digitised is clearly a legitimate aim of the regulation, and SEBI's apprehension about the mushrooming of misleading financial information is well known. The second requirement, however, reveals the first limitation of the rule. The three-month lag does not assess whether the content is misleading, fraudulent or manipulative – it only assesses the freshness of the underlying data. While a "finfluencer" who sets out to mislead the audience using data from three months ago can do the same, a true educator who is educating about diversification or systematic investment planning with an example from the current market is captured regardless of the accuracy or usefulness of the content. The rationality between the measure and the stated goal of preventing misleading advice is, at best, only partial, since the rule is not a requirement to state the truth, but one that is focused on timing.

The last is where the rule is most at risk. Puttaswamy wants the state to prove that there is no less restrictive way to achieve this protection. All but the last of these is a mechanism that was available to SEBI when the circular was drafted, as evidenced by their own proposals, and by the experience of other countries discussed later in this paper, including self-disclosure of fees and a separate registration tier for educators of the type proposed in Part IV of this paper, and the supervised-inclusion model adopted in Australia, where a finfluencer's content becomes accountable through the inclusion of a licensed intermediary rather than by restricting the content itself. These are not discussed in the consultation paper and are not recorded in the circular, nor is there any rationale given for choosing a blanket temporal restriction over a more calibrated, fact-dependent test.

Balancing is the fourth requirement, and it's not much better. In the case of *Maneka Gandhi v. Union of India*,[33] it was held that any procedure which interferes with the exercise of any fundamental right has to be just, fair, right, and not arbitrary or oppressive. An undifferentiated burden is placed on the speech of two very different risk profiles by a rule that applies evenly to both an academy and a schoolteacher explaining index movements to her neighbours. When the same restriction applies to both the gravest action and the most benign education, and there is no process to determine whether it is used to benefit one or the other, then the restriction on

[32] Aharon Barak, Proportionality: Constitutional Rights and Their Limitations (Cambridge University Press 2012).
[33] *Maneka Gandhi v Union of India* (1978) 1 SCC 248

protected speech is not proportional to the additional protection gained. The three-month lag, as applied to the proportionality test, fares equally badly at suitability, necessity, and balance.

It is a similar constitutional issue that was decided in *Shreya Singhal v. Union of India,*[34] wherein the Supreme Court had invalidated Section 66A of the Information Technology Act,[35] observing that "vague, broad or otherwise onerous provisions have the capacity to chill the expression of citizens, giving rise to uncertainty and, in effect, suppression of speech and expression."

However, in the context of financial education, such a concern arises not from a single measure but from a combination of AI-enabled surveillance measures, the ban on the use of recent financial data, and the wide ban on links with non-registered financial commentators. Imagine a teacher from Raipur who has invested many years in learning about equity markets and wants to upload videos to the community to educate them about the earnings of a company, its valuation measures, or trends in the equity market. Although she neither sells any investment product nor provides personal recommendations, the broad and vague guidelines can still deter her from doing so due to the uncertainty. The consequences of a regulatory mistake will be too expensive for the ordinary speaker, and this will have an unintended consequence of dissuading legitimate educational discourse. Here, it is not even necessary to punish the honest financial adviser to have a "chilling effect", since the uncertainty that they might be confused with an unregistered adviser could be enough to keep them out of the financial "marketplace of ideas.

This thought is echoed in *S. Rangarajan v. P. Jagjivan Ram*,[36] where the Supreme Court found that the restrictions on speech are acceptable only if the threatened harm is not remote, imaginary, or hypothetical. With operators like Sathe, there was hardly any space for ambiguity, that harm which SEBI is trying to prevent through its lag rule by individuals from posing as educators and misleading retail investors. It's a lot more speculative when it comes to a schoolteacher talking about the trends of a particular index without mentioning any security or recommendation.[37] If one takes Rangarajan's "proximate-harm" approach, and yet applies it to the nearest possible offender, but not to the farthest, then what is regulated is a remote

[34] *Shreya Singhal v Union of India* (2015) 5 SCC 1
[35] Information Technology Act 2000, s 66A.
[36] *S Rangarajan v P Jagjivan Ram* (1989) 2 SCC 574.
[37] European Securities and Markets Authority, *Warning on Investment Recommendations on Social Media* (ESMA 2024).

possibility of harm at the expense of a certain suppression of legitimate speech.

It is not a hypothetical schoolteacher that is worried, but the schoolteacher that is being charged with the enforcement action in the name of which this paper begins. This boundary is not just contestable in theory, but in the Sathe proceedings too. Sathe did not contest the dissemination of market commentaries nor discussions about live trades, but rather classified it as pedagogical, explaining that the use of real examples was a part of the learning of trading concepts and not used as a disguised advisory service. Remarkably, the Tribunal was not just confirming the stance of SEBI. It allowed the investigation to proceed, but reduced the impounded amount from ₹546 crore to ₹100 crore (a cut of almost eighty percent). It is a significant cut, which implies that even the adjudicator knowledgeable of securities law had not yet been satisfied with the initial quantification by SEBI, or the characterisation of the underlying conduct.[38] Where the line between education and advice is as clear as the regulatory framework suggests, one would expect very little difference between the regulatory assessment and the Tribunal assessment. The size of this revision suggests otherwise. It implies that in a case that most would consider quintessential "egregious" conduct, there is a gray area between disguised advisory activity and legitimate (but commercially structured) education that cannot be easily discerned by administrators.[39] The agency's struggles in this matter, which it called its “flagship enforcement action”, suggest a more ominous prospect for less notable teachers with smaller audiences and less lucrative business deals: that they may be similarly defined but without the institutional or financial resources to dispute before a Tribunal.

Comparative Lessons: Australia and the United Kingdom

Australia: Accountability Through Inclusion

Australia's regulatory strategy is a beneficial comparison to India's current finfluencer regime. A failure to obtain an Australian Financial Services (AFS) licence to undertake a financial services business is a serious regulatory offence with civil and criminal penalties.[40] The Australian Securities and Investments Commission (ASIC) is not proposing to establish a new category for finfluencers but rather a tool to use existing financial services law to address

[38] Namita Shetty and Adya Garg, 'End of the Party for Sin (Fin) Fluencers? SEBI's Regulatory Crackdown on Finfluencers' (Cyril Amarchand Mangaldas, 12 September 2023).
[39] Regulating Finfluencers in India: Balancing Investor Protection and Freedom of Expression' (SSRN, 2025) SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6273678
[40] *Corporations Act 2001* (Cth) pts 7.6, 7.7.

them.[41] A finfluencer is not defined as a financial institution, meaning that it is not regulated by ASIC.

However, ASIC's Information Sheet 269 explains that a finfluencer must hold an AFS licence if its activities involve the provision of 'financial product advice' (a recommendation or statement of opinion that is likely to influence the decision of a person to buy or sell, or to withhold from buying or selling a financial product) or if it facilitates or arranges a transaction involving a financial product.[42] Most importantly, the Australian approach is not about the medium of the communication, but what it is and how it impacts. The scope of the licensing requirement is limited to general financial education, market literacy programs, and general ideas about financial investing; personalised or recommendation-based content is placed under the heading.[43]

One of many highlights of the Australian model is the concept of supervised inclusion. If a financial services provider is contracting a finfluencer for promotional or advisory services, the finfluencer may be an authorised representative of the licensee. In these situations, it is important to note that it is not the job of the content creator to bear the burden of regulatory responsibility, but rather the licensed entity will have responsibility to meet disclosure requirements, conduct obligations, and other investor protection obligations that come with a licence. Thus, the regulation can be expanded without impacting the normal educational process. While India relies on banning commercial associations, and restricting financial content, Australia relies on identifying influential actors and putting them in an established compliance framework. This difference makes a big difference.[44] The Australian model broadens the remit of the regulator's supervision and accountability in the market and the Indian model is mainly about deterrence and exclusion. But it is not just a question of investor protection, it's also a matter of regulating financial influence without the need for broad restrictions, as Australia has demonstrated, as a result of which legitimate educational

[41] Stephen Bottomley, 'The Notional Legislator: The Australian Securities and Investments Commission's Role as a Law-Maker' (2011) 39(1) *Federal Law Review* 1.
[42] Australian Securities and Investments Commission, 'Discussing Financial Products and Services Online' (ASIC, 4 March 2022) https://asic.gov.au/regulatory-resources/financial-services/giving-financial-product-advice/discussing-financial-prod ucts-and-services-online
[43] Australian Securities and Investments Commission, 'Discussing Financial Products and Services Online' (ASIC, 4 March 2022).
[44] Michael Vrisakis, 'Financial Services in the Social Media Age: The Rise and Risks of Finfluencers' (Herbert Smith Freehills, 4 April 2022) https://hsfnotes.com/fsraustralia/2022/04/04/financial-services-in-the-social-media-age-the-rise-and-risks-of-finfluen cers/

discussion is hampered.

United Kingdom: Governing the Distribution Channel

The UK's regulatory framework is a hybrid approach that has been designed to uphold investor confidence and oversight of digital platforms. Under the Financial Services and Markets Act 2000 (FSMA),[45] financial promotions can only be communicated by a person who is authorised by the Financial Conduct Authority (FCA) or by a person whose communications have been approved by an authorised person. The FCA's Finalised Guidance FG24/1 on financial promotions via social media reinforces the approach taken to social media financial promotions, which is the same as the approach taken to financial promotions in traditional advertising, namely that they must remain fair, clear, and non-misleading.[46] The most innovative aspect of the British approach is, however, that it also takes account of distribution channels, as well as speakers. Social media platforms that serve financial promotions are increasingly expected to take reasonable steps to ensure financial promotions are from authorised sources and comply with the relevant regulatory requirements under the FCA's regulations.[47] The Advertising Standards Authority (ASA), which oversees the CAP Code, imposes additional requirements on advertisers and promoters that they have regard for legality, honesty, accuracy, and transparency.[48] All of these mechanisms form a gradient of compliance, with responsibility being shared among a variety of actors, including content creators, websites, firms with authorisation, and advertisers themselves. The British approach is different from regulatory approaches, which are mainly focused on filtering content and banning speakers from the financial system, because it aims at managing the wider financial ecosystem that financial influence travels through.[49] The importance of this approach is the addition of a third regulatory lever to the classical options of regulating the speaker or the regulated content: the regulation of a distribution channel. The United Kingdom recognises that digital platforms are an important catalyst for providing financial information and tackles the structural conditions

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[45] *Financial Services and Markets Act 2000* (UK), s 21.
[46] Financial Conduct Authority, *FG24/1 Finalised Guidance: Financial Promotions on Social Media* (FCA 2024).
[47] Nikki Johnstone and Mark Dean, 'FCA Clamps Down on Investment App's Use of Social Media Influencers' (Allen & Overy, 3 March 2022) https://www.allenovery.com/en-gb/global/blogs/investigations-insight/fca-clamps-down-on-investment-apps-use-ofsocial-media-influencers
[48] Advertising Standards Authority, *The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code)*.
[49] Mike Cowan and Douglas Gillison, 'Forum: Finfluencers—Beware of Clampdowns on Social Media Financial Promotions' (Thomson Reuters, 30 May 2023) https://www.thomsonreuters.com/en-us/posts/investigation-fraud-and-risk/forum-spring-2023-finfluencers/

that can allow for damaging promotions to be delivered to large audiences. In contrast, India has focused mainly on regulating finfluencers and their business relationships rather than on holding the platform accountable. There have been some recent initiatives by SEBI and technology firms like Google towards this, but a broad framework of platform responsibility has not been created. The British experience thus shows that effective regulation of the influencers does not require to be limited to regulating what is said or who can say it, but can be extended to regulating the way in which financial influence is amplified and disseminated.

The RBI Model: A Fourth Regulatory Lever

Beyond Speakers and Content: Rethinking Regulatory Design

Australia's experience has shown that there are three ways to tackle the finfluencer problem: (1) licensing of the speaker; (2) disclosure and promotion standards; and (3) platform accountability. However, a fourth lever is underutilized in all of these models: the regulator's own marketing and communication campaign for information becoming a viable competitor in the marketplace. The experience of the Reserve Bank of India (RBI) can serve as a fruitful example in this context.

The RBI Model and the Institutionalisation of Public Communication

The RBI has been working on a continuous public awareness campaign called "RBI Kehta Hai," and communication has been elevated to a more integral part of financial regulation.[50] The campaign reaches citizens through television, radio, print and online platforms, in multiple regional languages, educating them about new financial risks and explaining the traits of trusted financial institutions and practices, including phishing scams, fake loan applications and fraudulent KYC requests. Importantly, the RBI does not solely rely on the enforcement action against bad guys in this regard, but makes it harder for bad guys by making information more available and more useful to inform the public. A collaborative long-term partnership, periodic awareness campaigns, and a regular communication message have been the steps taken to embed this communication approach in the operations of the institution. In contrast, SEBI has taken steps towards investor education by establishing an Investor Education and Protection Fund, organising awareness programmes, etc., although these are more reactive, digital, and focused on investors seeking investment information. That's one reason why they cannot

[50] Reserve Bank of India, *Report on Trend and Progress of Banking in India 2023–24*.

always strike a rapport with the first-generation investors, and sometimes individuals resort to social media influencers for guidance. It's not about the size of the institution. The main legislation (i.e., the SEBI Act) has already given an express statutory mandate to SEBI to educate investors under Section 11 of the Act,[51] and SEBI already has the investor money, with the large sums of money collected in terms of fees and penalties in the enforcement process. It's not the question of statutory power, but rather, the question of institutional posture. The finfluencer controversy is really about restoring trust and attention, and if regulation is the right approach, it's not just about regulating the bad actors out of the system. It's about enabling credible actors. Instead of communication being a secondary function, SEBI should acknowledge and treat it as a central regulatory function that can help mitigate the vulnerability of investors to unverifiable financial influencers without the need for regulatory action.

A communication-based approach, however, should go beyond ad hoc awareness-raising activities and become an effective institutional policy. SEBI must thus launch a long-term public education programme, similar to the RBI's "RBI Kehta Hai" programme, which is made available on Doordarshan, All India Radio, regional television networks, community radio stations and digital platforms across Indian languages. The campaign should not only be conducted with an abstract concept of investor awareness, but should also provide citizens with practical tools for verifying and making decisions. Investors need to be educated to check the SEBI registration number, know the difference between registered and unregistered advisers, and the common warning signs like guaranteed returns, the pressure sales tactic, sponsorship by the adviser, and the promise of exclusive or "secret" market information.[52] The campaign should also help to reinforce the fundamentals like diversification, systematic investment plans, disclosures of risks, and the relationship between risk and return. Notably, a large portion of this material already exists in finfluencer ecosystems, but is coming from an institution that has no business interest in maximizing engagement, selling courses, or facilitating trading activity.[53] This directly tackles the informational imbalance that enables fraudulent finfluencers to thrive. Whether the advice is given by someone in the know or not, an investor who knows how to check credentials and to identify manipulative behavior is much less likely to be misled. Most importantly, this approach promotes investor protection while maintaining free speech, avoiding further licensing requirements, and enabling investors to determine the legality of

[51] Securities and Exchange Board of India Act 1992, s 11(1).
[52] Securities and Exchange Board of India, *Investor Charter for Investment Advisers*; Securities and Exchange Board of India, *Investor Education and Protection Fund Regulations 2009*.
[53] CFA Institute Research and Policy Center, *Clicks & Credibility: Finfluencers and Investor Trust* (2025).

educational materials. In doing so, it provides an alternative to general content ban/based control, which is less restrictive, and helps to alleviate reliance on unverified financial influencers with the availability and accessibility of quality financial information. If the ultimate goal of securities regulation is to enable investors to make informed choices about their securities, it may be better to help citizens assess the securities that enter the market than to try to regulate all of them.

Financial Literacy as Preventive Regulation

The obvious question answering this is, where does SEBI get its funding and mandate? The solution is largely embedded in the existing architecture of SEBI. Statutory provisions for companies' and securities' regulation already provide for the existence of the Investor Education and Protection Fund, which is specifically designed to provide funding for investor education and investor protection activities, and is funded by unclaimed dividends, by matured deposits, and by amounts transferred from the proceeds of companies, including penalties and disgorgement recovered through investment protection enforcement action.[54] The impounding of ₹546 crore of shortfall from Sathe alone, and the heavy penalties the regulator often imposes when it faces enforcement action by the market manipulators or intermediaries without registration, suggest that the regulator is not resource-constrained in any meaningful sense. The problem that is missing at the moment is not capital, but a conscious institutional decision to commit a certain percentage of these recovered flows to long-term mass media communication, instead of reserving them as a relatively underused resource. A legislative mandate to spend a certain percentage of the Fund on investor education, as done by the RBI with its investor awareness campaigns, would make investor education a firm institutional commitment. This too would create a valuable symbolic link: the very actions that show the extent of the damage caused by finfluencers would also pay for the public messaging to stop it happening again, punitive deterrence with preventive education in one piece of legislation.

Towards a Balanced Framework: Recommendations

The above analysis shows that the issue before SEBI is not just the regulation of finfluencers, but the creation of a system that can distinguish between the harmful influence and proper financial education. Thus, the approach to reform should go beyond a focus on prohibition and

[54] Securities and Exchange Board of India, *Annual Report 2024–25*.

should strive to bring together legal clarity, regulatory participation, and investor empowerment.

A Safe Harbour for Financial Education

The first step is for SEBI to introduce a statutory safe harbour for financial education in the Investment Advisers Regulations. Much of the confusion over the current model is that there is no clear distinction between regulated investment advice and educational content.[55] This uncertainty makes it difficult to enforce, as well as raises a chill effect on legitimate educational speech. A safe harbour provision should therefore maintain a clear definition of financial education that is objective, including that it does not include any personalised recommendations, does not include any specific buy/sell instructions, or incorporate any standardised risk disclosures.[56] Content that meets these requirements should be considered educational and not advisory material. This would offer a welcome sense of security for educators and content creators and enable SEBI to focus its enforcement efforts on the truly harmful actions.

Secondly, India should also think of having a new category of Financial Educators, apart from the Investment Adviser and Research Analyst categories. The Australian experience has shown that effective regulation is more likely when influential actors are included in the regulatory frame, as opposed to being excluded. A less onerous registration process might mandate minimum competency standards, periodic disclosure of conflicts of interest, and obligations for prescribed conduct, but expressly ban the rendering of personal investment counsel.[57] This would incentivize voluntary compliance, boost the number of accountable financial education providers, and help mitigate the scarcity of registered intermediaries to cater to the burgeoning retail investor base in India.

Last but not least, SEBI should put public communication firmly on its agenda as a core

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[55] Securities and Exchange Board of India, 'Consultation Paper on Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities (including Finfluencers)' (25 August 2023) https://www.sebi.gov.in/reports-and-statistics/reports/aug-2023/consultation-paper-on-association-of-sebi-registeredintermediaries-regulated-entities-with-unregistered-entities-including-finfluencers-_75932.html

[56] Indian Association of Investment Professionals, 'Comments on Consultation Paper on Association of SEBI Registered Intermediaries / Regulated Entities with Unregistered Entities (Including Finfluencers)' (8 September 2023) https://cfasocietyindia.org/wp-content/uploads/2023/09/CFA-Society-India-Response-to-Consultation-Paper-on-Ass ociation-of-SEBI-Regietered-Entities-with-finfluencers.pdf

[57] 'The Rise and Regulation of Financial Influencers' (Corrs Chambers Westgarth, 24 October 2022) https://www.corrs.com.au/insights/the-rise-and-regulation-of-financial-influencers

regulatory duty, and not a sideline function. The State-run Securities and Exchange Board of India (SEBI) should have its own statutory role and budget to carry out long-term investor education campaigns in regional languages via TV, radio, print and digital media, building on the successful example set by the Reserve Bank of India (RBI) with its "RBI Kehta Hai" platform.

These campaigns should be directed to investor protection tools that they can use, such as checking if a service is registered, understanding some of the common signs of fraud, and basic risk management. Such a measure would lessen the reliance by investors on unverifiable sources of financial information while also limiting the scope of free speech and the scope of regulatory restrictions. Therein lies the most resilient form of protection against fraudulent financial manipulation: a well-informed population of investors.

All of these reforms point to a general change in the regulatory mindset. Instead of suppressing financial influence as a problem, they aim to understand it as a phenomenon that needs to be channelled, supervised, and counter-balanced. By doing so, they provide a blueprint that does not compromise the protection of investors, whilst also acknowledging the constitutional and practical problems of digitalisation in the world of finance.

Conclusion

When referring to the controversy surrounding Avadhut Sathe, the term "dispute over one finfluencer" is used quite often. It is, in fact, a much more fundamental problem that faces contemporary securities regulation. The case highlighted the increasing inexistence of existing regulatory classifications to handle digital financial communication. The focus on financial education, market commentaries, advertising, entertainment, and investment advice was created in a time when they were separated and conducted by different groups. Social media has broken down those divisions. A single video can educate, entertain, promote, and influence investment decisions all at once today. The question is not, at this point, whether regulators should intervene in the finfluencer market or not, but how they can do so in a decentralised, algorithmically amplified, lucrative marketplace.

SEBI's apprehensions are well-founded and warranted. There is a real risk to retail investors and to the integrity of the markets from misleading financial information, undeclared conflicts of interest, unregistered financial advice, and market manipulation. It is crucial that social media becomes a primary source for a lot of first-time investors for financial information and without intervention, the authorities will not be able to manage it. The challenge, however, is to make sure that efforts to stop bad behaviour do not also have the effect of restricting legitimate financial education. A system without a clear separation between education and advice can cause ambiguity and do little to address the structural conditions that gave rise to the emergence of finfluencers in the first place, as the debate on the three-month lag illustrates.

Learning from comparative experience. Australia's system shows how to keep influential actors within the regulatory framework by supervising and holding them to account, not excluding them. In the United Kingdom, it is important to take into account of the responsibility of the platform and acknowledge that regulation can extend beyond regulation of speakers and content to the routes used to disseminate influence. Both models imply that sustainable regulation calls for the inclusion of new players in the transparency and oversight mechanisms, not just their eradication.

As is the experience of the Reserve Bank of India. The successful media campaigns launched by RBI clearly show that communication can take on the role of a regulatory tool. It's not just that bogus actors exist; it is that there are informational vacuums that make them so successful. Those investors who are able to check the credentials, recognize warning signals, and critically assess financial claims are less susceptible to manipulation. In that regard, communication isn't a substitute for regulation; it's regulation.

The reforms outlined in this paper are a statutory safe harbour for financial education, a new regulatory category for financial educators, and an institutionalised public communication mandate, which are intended to remove uncertainty, exclude, and replace with supervised inclusion, and reactive enforcement, with preventive 'empowerment'. At the end of the day, the "finfluencer" debate is not just one about securities law. It is a question of what the role of regulation is in an informational society. Suppression of the speaker is not always the best answer to bad money talk; it's often best to create a more credible, accessible, and trusted source of information. To address the challenges of the digital age, SEBI must consider communication as one of its most effective regulatory instruments and not a standalone responsibility.