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A Critical analysis of AI Disclosure Requirements in Online Advertising

Akanksha Singh

Jagran Lakecity University

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INTRODUCTION

AI has contributed a lot to online advertising through ways such as personalized advertising, automating the process of interacting with customers, and helping with predictive modelling and data analysis. In India, algorithms and AI recommendations are the lifeblood of the digital economy and allow customers to reach customers most effectively. However, the fact that AI is sometimes hidden can violate the right to know and mislead customers. Research shows that if customers are aware of the AI usage in advertising, they will perceive the advertisements as more reliable and trustworthy. At the moment, there is no specific legislation that regulates the use of AI-generated advertisements in India.

LEGAL FRAMEWORK GOVERNING AI DISCLOSURE IN INDIA

Consumer Protection Act, 2019

India's 2019 Consumer Protection Act is the primary legislation that aims to stop unfair trade practices and misleading advertisements. Being technology-neutral, the Act covers the use of AI content to mislead consumers as it includes any deceptive acts, including a false description and concealment of information. Indeed, the definition of misleading advertising provided by the Section 2(28) and the redress available by virtue of Section 21 of the Act may be used to address AI-generated manipulations. Such manipulations include the use of deep fake technologies or fabricated testimonials to present a deceptive advertisement. In the case of misleading ads, the Central Consumer Protection Authority has the responsibility to investigate and penalize the one who has violated the law.¹

Additionally, a duty of transparency and truthfulness to businesses is outlined in the 2022 Guidelines for Prevention of Misleading Advertisements. As such, there may be an obligation to explicitly disclose any information related to technology-generated deceptive claims, including the use of AI, to the consumer. Thus, although there is no explicit rule in India's current legislation that requires an organization to disclose the use of AI technologies for advertising or other manipulations, future regulations can be enacted based on the existing laws.

¹ Consumer Protection Act, 2019, No. 35, Acts of Parliament, 2019 (India).

Information Technology Act, 2000

Although the Information Technology Act, 2000 mostly covers electronic transactions, cybersecurity, and cybercrimes, it still applies to AI-generated marketing and advertisement due to the potential for electronic impersonation, deception, and fraud. Generative AI technology enables the production of realistic fake videos, images, and audio recordings that show celebrities, politicians, or other public figures promoting various commodities or services in a manner that appears genuine. In fact, this practice may give rise to a violation of the Information Technology Act due to the generation of fake electronic records for fraud, deception, misrepresentation, and identity theft.²

On the other hand, the Information Technology Act does not explicitly cover AI-generated fake advertisements since the legislation was designed before the development of generative AI and other technologies. Therefore, the Information Technology Act does not define AI-generated information or require organizations to disclose synthetic data, creating legal ambiguity around the responsibility of such platforms. Thus, in terms of legal regulations, India needs to update its laws on technology and digital commerce to address the risks associated with AI-generated advertisements.

Digital Personal Data Protection Act, 2023

The Digital Personal Data Protection Act, 2023 is essential for regulating AI-driven advertising since such marketing approaches rely on the analysis of personal data to identify users' behavior, preferences, and needs. In particular, AI-driven advertisements use computer algorithms to learn customers' browsing or shopping behavior, location, demographics, and other factors to offer related products or services. The DPDP Act requires data fiduciaries to collect and process personal data in a lawful, transparent, and fair manner, restricting the disclosure of any information without the explicit consent of individuals. While the DPDP Act does not explicitly cover AI-generated advertisements, its provisions on transparency and personal data processing enhance the likelihood of users obtaining accurate information on synthetic advertising. In turn, the DPDP Act supports informed decision-making of social media users and transmits organizational responsibility for marketing activities based on personal data processing.³

² Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

³ Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023 (India).

ARE INDIA'S LAW SUFFICIENT TO REGULATE AI DISCLOSURE IN ONLINE ADVERTISING?

India does not have disclosure requirements for generative AI, and regulators have relied on consumer protection laws to govern AI-generated advertising. A self-regulatory body, the Advertising Standards Council of India or ASCI, oversees advertisement content. Its guidelines ensure that all ads are “truthful, honest, decent and not misleading,” which may put a stop to businesses’ attempts to mislead customers by using AI to generate images or videos without disclosing these technologies. Although this guidance does not prohibit the use of AI outright, none of ASCI’s advertising guidelines make any mention of artificial intelligence or computer-generated imagery, its general advertising principles suggest that advertisers cannot rely on AI to deceive or mislead consumers.⁴

They state that all advertisements must be truthful and honest and require businesses to disclose any information that may turn out to be misleading, conceal, or disguise any relevant facts or information. Again, none of these guidelines mention artificial intelligence, machine learning, or computer-generated imagery. They do not compel businesses to disclose the utilization of AI to generate content, promote products and services, or edit existing pictures, videos, or other media to make them more presentable and realistic, as long as the information they convey is accurate. Additionally, the guidelines do not clarify whether advertisers should disclose utilizing “synthetic influencers” to promote their items and services. The utilization of generative AI in advertising is rising daily, and these disclosure norms will undoubtedly be tested in the near future.

However, research on the relationship between AI and advertising may help legislators draft much-needed regulations for AI-generated advertising in India. According to Koning and Voorveld’s research, most consumers have a generally positive attitude towards the utilization of AI in advertising, particularly when companies reveal their adoption of these technologies and enable them to distinguish between AI-generated and human-powered content. For

⁴ Linwan Wu, *Disclosing AI’s Involvement in Advertising to Consumers: A Task-Dependent Perspective*, 54 J. ADVERT. 20, 23-25 (2025).

instance, advertisements with AI-generated content should be labeled as such, whereas those that only utilize AI as an editorial tool should not adopt such intensive disclosure norms.⁵

Patil and Rice's research provides additional support for the necessity of context-specific disclosure norms for AI-generated advertising. Their research demonstrated that clients frequently associate authenticity and hard work with items and services and, therefore, these qualities can be diminished when consumers realize that an advertisement was created with the help of AI. This study highlights the criticality of maintaining transparency in advertising in general and AI-generated advertising in particular. After all, customers' attitudes and perceptions of advertised goods and services are significantly influenced by whether or not they believe an advertisement was generated by AI.

India can draw inspiration from the EU's proposed Artificial Intelligence Act. Under the proposed rules, AI developers would be compelled to disclose all personal data utilized to train AI models, and AI systems that engage in human interactions by tricking or manipulating them or transforming existing media to make it appear more realistic would be required to be transparent about their operations. Although EU legislators cannot copy the exact language and goals because the U.S. has significantly fewer restrictions and obligations when it comes to advertising, these guidelines highlight how India can begin implementing mandatory disclosure norms for AI-generated advertising without restricting free speech and commercial activity.⁶

To conclude, it is evident that India's legal framework for regulating AI-generated advertising has three primary flaws: a lack of clarity on what constitutes AI-generated content, the absence of mandatory disclosure norms for such information, and the inability to enforce these norms, which shifts the burden of proof on the consumers. Nevertheless, although the Indian legislature does not have specific guidelines for regulating AI-generated advertising, businesses cannot take advantage of the ambiguity in the law because the current laws provide a certain level of transparency, truthfulness, and consumer protection that can be utilized to identify deceptive advertising practices.⁷

⁵ Hien Bui, *Examining the Effect of AI Advertising Involvement Disclosure on Advertising Value and Purchase Intentions*, 20 J. RES. INTERACT. MARK. 613, 620-624 (2025).

⁶ Britta Koning & Hilde A. M. Voorveld, *Disclaimer! This Content Is AI-Generated: How AI-Disclosures Influence Trust in Advertisements and Organizations*, 25 J. INTERAT. ADVERT. 240, 244-247 (2025).

⁷ ADVERTISING STANDARDS COUNCIL OF INDIA, <https://www.ascionline.in> (last visited Jul. 23, 2026).

CONCLUSION

The introduction of AI has revolutionized the advertising online process by allowing companies to create customized and highly convincing promotional messages. But it has also made it increasingly difficult to differentiate between content produced by humans and artificial media, which increases the chance of misleading consumers and affecting informed choices. Thus, the need for transparent operations is pivotal for the responsible implementation of AI technology.⁸

At the same time, it is important to note that the rapid success of generative AI proves that it is not enough to adopt technology-neutral policies. Due to the lack of clear definitions, rules, and enforcement mechanisms, advertisers operate in a legal vacuum that does not protect consumers. Therefore, it is necessary for India to develop AI-related regulations that would require organizations to disclose their use of AI-created advertising content whenever appropriate in consumer decision-making processes.

⁸ CENTRAL CONSUMER PROTECTION AUTHORITY, <https://consumeraffairs.gov.in> (last visited Jul. 23, 2026).