INFLUENCE WITHOUT IDENTITY: SHOULD AI-GENERATED INFLUENCERS BE SUBJECT TO MANDATORY LEGAL DISCLOSURE IN INDIA?

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ABSTRACT

The quick rise of influencers produced by Artificial Intelligence (AI) has completely changed the digital marketing landscape by challenging long-held beliefs about customer trust, authenticity, and transparency. AI-generated virtual personalities, in contrast to human influencers, are unable to connect with customers, promote products and influence purchasing decisions without having a real identity or life experience. These digital entities provide corporations significant economic opportunities, but they also raise challenging legal concerns about customer deception, data privacy, regulatory accountability, and advertising ethics. The Advertising Standards Council of India (ASCI) guidelines for Influencer Advertising in Digital Media, the Consumer Protection Act of 2019, the Guidelines for Prevention of Misleading Advertisement and endorsements for Misleading Advertisement of 2022, and the Digital Personal Data Protection Act of 2023 comprise India's current legal framework, which was mostly designed for human endorsers and offers minimal guidance regarding influencers that are fully AI-generated.

This article explores whether businesses and digital platforms ought to be mandated by law to reveal AI-generated influencers whenever they take part in commercial endorsements. It argues that transparency is essential in preserving consumer autonomy, preventing misleading advertisements, and fostering trust in digital commerce. This article makes the case that mandatory disclosure is a reasonable regulatory response that supports technological innovation while bolstering consumer protection by analysing India's current regulatory framework, comparative international developments and expanding commercial deployment

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of virtual influencers. It concludes with detailed legislative steps to fix this expanding regulatory gap before AI-generated endorsements take centre stage in India's economy.

Keywords: Influencers, Artificial Intelligence, Consumer Protection, Advertising Law, Data Protection.

INTRODUCTION

The digital advertising landscape has changed significantly as a result of the integration of artificial intelligence into commercial marketing techniques. One of the most significant developments is the emergence of AI-generated influencers, computer-generated virtual personalities who can produce content, interact with audiences, and promote businesses in a manner that closely matches that of human influencers. Global corporations, fashion brands, cosmetics manufacturers, and IT businesses are quickly utilising these virtual personas to communicate with clients on social media. They are driven by cutting-edge machine learning, computer graphics, and artificial intelligence technology. Their growing popularity signals a shift away from traditional influencer marketing and toward algorithmically controlled, automated digital endorsements.

Unlike traditional influencers, AI-generated influencers are devoid of human experiences, emotions, and decision-making abilities. Every interaction, recommendation, and endorsement are ultimately created or managed by human developers, marketing companies, or business groups. However, because these digital personalities often portray themselves in a manner that closely resembles human behaviour, customers are finding it more difficult to distinguish between genuine human endorsements and artificially generated promotional content. This emerging phenomenon raises fundamental legal issues about the authenticity, transparency, and consumer sovereignty of digital advertising.

Influencer marketing has grown at an unprecedented rate in India's digital economy thanks to rising internet penetration, extensive social media use, and the quick development of e-commerce. In order to lower marketing expenses, keep total control over public perception, and guarantee continuous commercial engagement, Indian companies have started experimenting with AI-powered virtual brand ambassadors at the same time. Despite these technical developments, human endorsers continue to be highly valued in the regulatory framework controlling digital advertising. The Consumer Protection Act of 2019[1], the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, and the Advertising Standards Council of India (ASCI)[2] Guidelines for Influencer Advertising in Digital Media all establish disclosure requirements for paid promotions, but they don't address whether or not consumers should be informed that the person endorsing a product is wholly fraudulent.

Due to the lack of a clear legal disclosure requirement, there is a significant regulatory vacuum. Customers may reasonably assume that an influencer recommending a product has real preferences or first-hand knowledge, even when an AI-generated influencer cannot independently use, evaluate, or form opinions about the things it promotes. This raises concerns about dishonest business practices, informed consumer choice, and the moral application of AI in advertising. The argument now is whether the law should require disclosure whenever an artificial personality, as opposed to a human one, exercises commercial influence, rather than whether AI can participate in digital marketing.

This article argues that India's existing legal system is insufficient to address the unique challenges posed by artificial intelligence-generated influencers. It contends that without needlessly delaying technical innovation, imposing a mandated legal disclosure requirement will promote fairness in digital advertising, increase transparency, and boost consumer confidence. The study examines consumer protection law, advertising regulation, data protection standards, and similar overseas trends to determine whether mandatory disclosure should be a major part of India's future AI governance framework.

UNDERSTANDING THE AI-GENERATED INFLUENCERS AND THE EXISTING LAW

Artificial intelligence-generated influencers, also known as virtual influencers, are digital identities created by computers that mimic the appearance, communication style, and social media activity of real influencers. AI-generated influencers are completely produced using artificial intelligence technology, computer-generated imagery (CGI)[3], machine learning, and human supervision, in contrast to traditional influencers who rely on personal creativity and life experiences. Unlike traditional influencers, who rely on individual creativity and life

[1] Consumer Protection Act 2019.
[2] Advertising Standards Council of India.
[3] Computer-generated Imagery.

experiences, AI-generated influencers are entirely created utilising artificial intelligence technology, computer-generated imagery (CGI), machine learning, and human supervision. These virtual personalities can produce promotional content, interact with followers, promote companies, and participate in digital campaigns while maintaining a consistent online presence that is entirely maintained by developers or marketing organisations. Because of their remarkable realism in imitating human behaviour, they are becoming an increasingly attractive marketing tool in industries including fashion, cosmetics, technology, and luxury shopping.

The commercial appeal of AI-generated influencers lies in their scalability and dependability. Unlike human influencers, they are not vulnerable to reputational risks from interpersonal conflicts, contract violations, or inconsistent public behaviour. A brand has complete control over every aspect of its online identity, including public relations, communication, endorsements, and appearance. This enables companies to preserve a carefully constructed brand image while significantly reducing the dangers usually associated with influencer marketing. Consequently, several multinational corporations have included virtual influencers into their marketing operations, suggesting a gradual shift towards computerised commercial endorsements.

Despite these financial benefits, AI-generated influencers are fundamentally different from human endorsers in one significant way: they cannot truly experience, assess, or independently form views about the things they recommend. Creating, approving, or programming a virtual influencer's recommendations is ultimately the responsibility of the firm that oversees them. However, consumers who engage with remarkably realistic AI characters might fairly believe these recommendations are genuine manifestations of human preferences. By influencing purchasing decisions without sufficiently disclosing to consumers that the endorsement comes from an artificial entity rather than a genuine being, such uncertainty negatively impacts consumer autonomy. As a result, the issue impacts ethical corporate practices and consumer protection in addition to technological innovation.

Instead of regulating artificial intelligence per se, India's advertising rules are intended to stop deceptive commercial promises. The 2019 Consumer Protection Act gives authorities the authority to penalise deceptive advertising that distorts consumer choices and forbids unfair corporate practices. In addition to this framework, the Consumer Protection (Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements), 2022[4] establishes standards to guarantee correct advertising and requires endorsers to conduct due diligence prior to making promotional claims. Similarly, the Advertising Standards Council of India (ASCI)[5] Guidelines for Influencer Advertising in Digital Media mandate that substantial ties between influencers and marketers be disclosed using labels such as 'Advertisement,' 'Paid Partnership,' or similar identifiers.

However, the idea that endorsements originate from identifiable human factors served as the foundation for the creation of these regulatory mechanisms. They do not require the disclosure of the influencer's identity as an artificially generated digital entity, but they do require the disclosure of economic ties. Therefore, an AI-generated influencer can comply with current advertising disclosure regulations by revealing that a post is a paid promotion while simultaneously creating the impression that the endorser is a real person with genuine personal experience. As a result, consumers are unaware that the personality affecting their purchasing decisions does not genuinely exist because the legislation addresses commercial transparency but not identity transparency.

The Digital Personal Data Protection Act 2023[6] helps protect the personal information that businesses using AI technologies process. However, rather than guaranteeing transparency in AI-generated commercial communication, its main goal is to regulate the handling of personal data. Similarly, even though India's upcoming AI regulations will place a greater emphasis on ethical deployment and responsible innovation, there is still no legal requirement that companies disclose AI-generated personalities used in influencer marketing or advertising.

A large regulatory gap is represented by this legislative quiet. Ordinary customers are finding it more and more difficult to discern between digitally manufactured identities and real influencers due to the increasing sophistication of generative artificial intelligence. The lack of required disclosure runs the danger of eroding consumer confidence, promoting dishonest marketing strategies, and decreasing informed consumer choice as AI-generated influencers become more realistic and commercially significant. As a result, the question before Indian law is no longer whether AI-generated influencers can engage in commercial advertising, but rather

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[4] 'Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022' <https://thc.nic.in/Central%20Governmental%20Schemes/Guidelines%20for%20Prevention%20of%20Misleading%20Advertisements%20&%20Endorsements%20for%20Mislaeding%20Advertisements,%202022.pdf>

[5] Advertising Standards Council of India.

[6] The Digital Personal Data Protection Act of 2023 (DPDP).

whether disclosure of their artificial identities should be mandated by law rather than being a matter of choice for businesses.

CONSUMER DECEPTION, ETHICAL CONCERNS AND MANDATORY LEGAL DISCLOSURE

The line between real human communication and content created by algorithms has become increasingly hazy due to the quick development of generative AI. Influencers created by AI are purposefully made to very accurately mimic human look, emotions, language, and social interactions. Customers may unintentionally interact with promotional endorsements as these digital personas get more complex, thinking they come from real people with independent viewpoints and personal experiences. The entire basis of informed consumer choice, which continues to be a primary goal of consumer protection law, is undermined by such misconceptions.

Influencer marketing, in contrast to traditional advertising, relies on the endorser's perceived relatability and genuineness. Because they believe that product recommendations are based on personal use, experience, or honest opinion, consumers often rely on influencers. When the influencer is completely fake, this assumption becomes problematic. Every recommendation ultimately represents commercial instructions rather than actual consumer experience because AI-generated influencers are unable to independently evaluate things, create preferences, or exercise personal judgement. The inability to reveal the influencer's artificial origin could lead to a deceptive commercial impression even if the promotional content doesn't contain inaccurate factual claims. This brings up a crucial legal question: should consumer protection go beyond the veracity of advertising claims to include disclosure of the endorser's identity?

This issue is only partially addressed by the current regulatory system in India. The Consumer Protection Act of 2019 forbids unfair trade practices and deceptive advertising that can sway customer decisions. Similarly, endorsers must use due diligence before making promotional claims according to the Consumer Protection (Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements), 2022. These responsibilities, however, implicitly presuppose that the endorser is a human being with the capacity to evaluate the products on their own. They do not consider scenarios in which the endorser is a completely synthetic digital character developed exclusively for profit. As a result, although the law governs the content of endorsements, it does not govern the identification of individuals who provide them.

The Advertising Standards Council of India (ASCI) Guidelines for Influencer Advertising in Digital Media contain a similar restriction. According to the Guidelines, influencers must reveal any significant connections they have with advertising by using labels like "Ad," "Sponsored," or "Paid Partnership." These declarations encourage openness about commercial sponsorship, but they don't address whether or not viewers should be made aware that the influencer is artificially created. As a result, a customer might be aware that a post is sponsored advertising, but they might also think that the recommendation comes from a genuine person rather than a computer-generated persona. Despite its growing significance in the era of generative AI, the distinction between commercial disclosure and identity disclosure has received little attention within current advertising regulations.

Global trends show that this regulatory dilemma is becoming more widely acknowledged. By mandating disclosure in specific situations where people interact with AI systems or when AI-generated information can be confused for genuine human communication, the European Union AI Act takes a transparency-oriented attitude. The law's emphasis on transparency reflects a growing global consensus that users should be informed when artificial intelligence dramatically affects human relationships, even though it does not directly govern influencer marketing. In a similar vein, legislative debates in countries like the US and the UK are placing more focus on the need for AI-generated material to be transparent in order to maintain public confidence and lessen dishonesty in online spaces.

The lack of transparency poses more general ethical issues in addition to legal compliance. Emotional involvement is becoming more and more important in digital marketing as opposed to just factual communication. Influencers created by AI are frequently intended to foster long-term relationships of trust, respect, and apparent intimacy with followers. When viewers unintentionally engage with imaginary characters created to maximise commercial effect, these para-social relationships, which are typically connected to celebrities and social media influencers, become considerably more complicated. As a result, consumers, especially youngsters and teenagers, may become susceptible to subtle types of persuasion that are challenging to identify or assess critically. Therefore, the implementation of more explicit disclosure requirements for AI-generated endorsements is supported by ethical values of transparency, autonomy, and informed decision-making.

One could argue that requiring disclosure could deter technological advancement or lessen AI-generated influencers' commercial efficacy. These worries, however, are unlikely to support total regulatory silence. Disclosure regulations only ask firms to be truthful about the type of digital entity dealing with customers; they do not forbid enterprises from using artificial intelligence in advertising. Sponsored material, financial advertising, health-related endorsements, and environmental claims are already subject to similar disclosure requirements. Therefore, imposing similar disclosure requirements on AI-generated influencers is a reasonable legislative response that strikes a compromise between consumer protection and commercial innovation.

Therefore, mandated legal disclosure should be seen as a way to boost public trust in digital commerce rather than as a barrier to technical advancement. Transparency about the identities of AI-generated influencers is going to become just as important as disclosure of sponsored partnerships as artificial intelligence becomes more and more integrated into advertising campaigns. In the end, failing to close this regulatory gap might erode consumer confidence, skew market justice, and reduce the efficacy of current consumer protection laws.

REGULATORY FRAMEWORK AND THE FUTURE OF AI INFLUENCER GOVERNANCE IN INDIA

Several jurisdictions are re-evaluating whether current advertising and consumer protection regulations sufficiently handle the particular concerns brought by artificial intelligence in light of the growing commercial deployment of AI-generated influencers. Global regulatory trends increasingly encourage openness, accountability, and consumer knowledge as guiding principles, notwithstanding the lack of comprehensive legislation particularly governing AI influencers. As India works to build a suitable legal response to AI-driven digital marketing, these developments offer important insights.

The Artificial Intelligence Act, which imposes transparency requirements on some AI systems that can communicate with people or create artificial content, is one of the most extensive regulation strategies adopted by the European Union. While engaging with an AI system, the law mandates that users be notified while doing so in order to prevent deceit. Although influencer marketing is not specifically regulated by the Act, its fundamental tenet, that people should be aware when artificial intelligence substantially affects their interactions, provides a crucial basis for controlling commercial endorsements produced by AI. By using a similar logic to influencer marketing, consumers would be informed when artificial rather than human personalities are influencing their purchasing decisions.

The Federal Trade Commission's (FTC)[7] enforcement of consumer protection principles has significantly shaped regulation in the United States. Influencers are required by the FTC's Endorsement Guides to reveal any significant connections they have with advertisers that could influence consumer choices. The requirement for transparency about AI-generated commercial material is becoming more and more important in ongoing conversations about generative artificial intelligence, even though these rules now concentrate on human influencers. The fundamental goal is still the same: customers should have enough knowledge to assess endorsements without being misled about their authenticity or source.

In a similar vein, regulatory bodies in Singapore and the United Kingdom have started to emphasise responsible AI governance and transparency through ethical frameworks and guidelines that encourage companies to reveal AI-generated content where consumer fraud may occur. Together, these measures show a growing global consensus that artificial intelligence shouldn't function covertly in situations where public trust and business decision-making are directly impacted, even though they are still primarily policy-driven rather than legally required.

Despite notable developments under the IndiaAI Mission and larger governmental initiatives encouraging ethical AI innovation, India currently lacks a specific legislative framework controlling AI. AI-generated commercial identities are not particularly regulated by current laws, such as the Consumer Protection Act of 2019, the Digital Personal Data Protection Act of 2023, and industry-specific advertising guidelines, which address specific aspects of data governance and consumer protection. As a result, companies using AI influencers are still bound by standard advertising laws and are not specifically required to disclose that the endorser is artificial. As AI-generated personas become more complex and financially significant, this regulatory silence becomes more problematic.

India could approve a tailored adjustment to its current advertising and consumer protection framework instead of enacting a whole new regulatory code. The ASCI Guidelines for Influencer Advertising in Digital Media and the Consumer Protection (Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements),

[7] Federal Trade Commission's (FTC).

2022 could be amended to mandate a prominent and unambiguous disclosure each time an endorsement is conveyed through an AI-generated influencer. Instead of being restricted to technical explanations, such disclosure should use phrases like "AI-Generated Influencer," "Virtual Influencer," or "Artificial Intelligence Generated Content." This strategy would greatly increase transparency while maintaining commercial flexibility.

Regulatory bodies should set baseline requirements for the commercial usage of AI-generated influencers in addition to disclosure requirements. Regardless of whether promotional content is created independently or under human supervision, businesses should still be held legally accountable for the veracity of claims made via virtual influencers. In order to ensure responsibility throughout the digital advertising ecosystem, developers, advertising agencies, and companies should also keep documentation proving adherence to consumer protection rules. These steps would stop companies from escaping legal liability by blaming artificial intelligence alone for deceptive information.

Crucially, regulations shouldn't stifle innovation in technology. Within digital marketing, artificial intelligence presents significant prospects for innovation, accessibility, and business efficiency. Overly stringent regulations may hinder technology advancement and make India less competitive in developing digital sectors. Therefore, the goal of legal reform should be to create clear regulations that can maintain consumer trust while promoting responsible innovation rather than outlawing AI-generated influencers. Businesses could profit from technological innovation without jeopardising consumer rights if there was a balanced regulatory framework based on responsibility, disclosure, and ethical AI governance.

Therefore, acknowledging that openness is not only a moral goal but also a crucial legal protection is crucial for the future of AI influencer governance in India. Disclosure of artificial identities ought to be a key part of contemporary advertising regulations as digital identities become more and more similar to real personalities. Such reform would increase public trust, encourage fair competition, and ensure that technical innovation remains consistent with the broader objectives of consumer protection law.

CONCLUSION

One of the biggest advances in modern digital advertising is the rise of AI-generated influencers, which is radically changing how companies, customers, and technology interact. Virtual influencers provide organisations with previously unheard-of chances for creativity, consistency, and business efficiency, but their growing use also highlights significant regulatory flaws in India's current legal system. Because they were primarily created with human endorsers in mind, current regulations pertaining to consumer protection, advertising standards, and data privacy do not sufficiently address the particular difficulties presented by artificial digital personalities.

As this article has shown, the main issue is not artificial intelligence per se, but rather the lack of openness surrounding its usage in commercial endorsements. When consumers engage with AI-generated influencers, it is reasonable for them to believe that recommendations come from authentic human experiences when, in fact, they are well-crafted marketing messages under the control of businesses. Such ambiguity might make it more difficult for consumers to make educated decisions, erode public trust in digital advertising, and open the door to subtle forms of commercial deceit that are not specifically covered by current laws.

Comparative regulatory trends show that there is a growing global consensus in support of transparency wherever artificial intelligence has a major impact on human relationships. In a similar vein, India ought to take a forward-thinking regulatory stance by acknowledging that revealing an influencer's false identity is just as crucial as revealing a business partnership with an advertiser. A well-thought-out disclosure approach would boost consumer confidence and promote the ethical and responsible use of AI in the advertising sector, as opposed to imposing onerous limitations on technological innovation.

In the end, public trust in the legitimacy and impartiality of commercial communications is just as important to the future of digital marketing as technological progress. In order to achieve this balance and ensure that innovation continues to thrive without undermining the core values of accountability, transparency, and consumer autonomy that form the foundation of contemporary consumer protection law, mandatory legal disclosure of AI-generated influencers would be a significant step.

RECOMMENDATION

The following changes are suggested to improve India's legislative framework controlling AI-generated influencers in light of the regulatory issues mentioned above:

Establish a Legal Disclosure Requirement for Influencers Produced by AI: The Consumer Protection (Guidelines for Prevention of Misleading Advertisements and Endorsements for

Misleading Advertisements), 2022 should be amended by the Central Consumer Protection Authority to mandate conspicuous and unambiguous disclosure each time an AI-generated or virtual influencer makes a commercial endorsement. For the average consumer, this kind of information should be straightforward, obvious, and uncomplicated.

Update the ASCI Guidelines for Influencer Marketing: AI-generated influencers should be specifically included in the Advertising Standards Council of India's (ASCI) Guidelines for Influencer Advertising in Digital Media. The updated rules should include standard disclosure language, define virtual influencers, and make clear what marketers, developers, and marketing firms are responsible for.

Provide Legal Responsibility for Endorsements Produced by AI - Legislation should make it clear that companies, advertising agencies, and developers are nonetheless legally liable for deceptive ads that are spread by influencers created by artificial intelligence. Under consumer protection law, artificial intelligence shouldn't be used as a way to escape liability.

Create a National AI Ethics Framework for Digital Advertising: The ethical use of artificial intelligence in commercial advertising should be governed by specific regulations that India develops. Transparency, fairness, explainability, responsibility, and safeguarding vulnerable consumers, especially children and teenagers, should be the main focus of these concepts.

Promote Global Regulatory Collaboration: India should take an active part in international conversations around AI governance and advertising regulation, given the global character of digital advertising. In addition to facilitating cross-border enforcement, harmonised disclosure and accountability norms would give multinational corporations participating in digital markets more legal certainty.