

# ARTIFICIAL INTELLIGENCE AND ADVERTISING: LAWS AND ETHICS

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## ABSTRACT

Artificial intelligence (AI) is swiftly emerging as the advertising industry's future today. AI is already being used by advertisers to automatically, in real-time, at scale, identify and segment audiences, create ad content, test advertisements, enhance ad performance, and optimise expenditure. The advertising industry has changed as a result of AI's capacity to evaluate enormous volumes of data, forecast customer behaviour, and optimise advertising campaigns. But as AI's influence in advertising grows, so does the need for legislation to maintain accountability, transparency, and fairness. The present study focus on analysing the role of AI in advertising.AI is more than a single technology. It's a catch-all word for a variety of intelligent technologies such as these that are self-learning and self-improving. These are hardly the only things AI is capable of. For this reason, progressive businesses are utilizing AI to distribute advertising funds among audiences and channels. AI enables marketers to target the right audience, make decisions more quickly, and create more personalized experiences. The study will be significant in examining the role of AI in advertising and its legal and ethical issues.

**Keywords:** Artificial Intelligence, Marketing, Advertising, laws, regulations

## Introduction

Advertising landscape has undergone complete change. It had been simpler to get the public's attention in the past. The true challenge now is to figure out how to get target audience to notice it and, more importantly, to keep it there amid the plethora of options that are presented to them. In the modern world, technology has unquestionably become an indispensable part of our daily lives. Artificial intelligence (AI) technology has been able to improve fundamental elements of the advertising market in recent years ,thanks to developments in machine learning. AI has improved campaign efficiency and results when it supplements current advertising strategies, enabling marketers to increase their efforts and achieve more.

With thousands of advertising variations at their disposal, AI models can test efficacy fast and effectively, taking into account crucial demographic data that drives campaign success through minuscule, precisely targeted market segmentation.

AI is being utilised more and more in operational markets to determine company operations to collaborate with target customers, identify risk, and conduct consumer research (Campbell et al. 2020). The ethical issues surrounding the use of AI in marketing and advertising are growing along with its influence. The fundamental values of accountability, rights, transparency, and privacy are at the core of these concern.

here are a number of ethical issues with AI use in marketing, such as discrimination, transparency, and privacy. Due to AI systems' frequent reliance on data collection and processing, issues with security and privacy develop. (Kim et al., 2021)

Artificial Intelligence (AI) has the potential to revolutionise customer interactions in digital marketing (Ransbotham et al. 2017). Artificial intelligence (AI) has made it possible for businesses to access cutting-edge tools and strategies that have the potential to completely transform their advertising approaches. AI enables companies to engage with their target market and accomplish their advertising objectives. Artificial intelligence, abbreviated as AI, is the simulation of intelligent human behaviour by machines.

The advertising industry has changed as a result of AI's capacity to evaluate enormous volumes of data, forecast customer behaviour, and optimise advertising campaigns. But as AI's influence in advertising grows, so does the need for legislation to maintain accountability, transparency, and fairness.

According to Mittelstadt et al. (2019), transparency in AI decision-making is essential to guaranteeing that AI is applied morally and sensibly. They contend that increasing accountability for AI decision-making and developing interpretable AI systems are two ways to achieve transparency.

AI techniques can assist in automating the creation of unique content in the advertising industry, including text, graphics, articles, and marketing materials. Advertising agencies should be aware of the legal concerns associated with AI-generated material before deciding to use generative AI.

Because of generative AI's powerful contributions to backend operations, client engagement, and content generation, the advertising industry has seen a tremendous transformation. Businesses are drawn to using AI extensively to satisfy their creative demands because to its speed and efficacy.

## **Research Objectives**

- To understand the role of AI in advertising.
- To examine the role of AI in enhancing the customer experience in the advertising industry.
- To identify the challenges and opportunities associated with incorporating AI with reference to ethical and legal issues.

## **Methodology**

A qualitative research methodology was adopted in this study. To gather the necessary data for this study, extensive online research was conducted, including a search of books, articles, newspapers, websites, and other pertinent sources.

## **Advertising, AI and laws**

Generative AI techniques can assist in automating the creation of unique content for advertising, including text, graphics, articles, and marketing collateral. Businesses and other organisations, such as marketers and advertisers should be aware of the legal ramifications associated with AI-generated material before deciding to use generative AI. In addition to benefits like reduced costs, increased productivity, and efficiency, regular usage of generative AI entails some inherent legal challenges and difficulties that advertisers should be aware of.

An analysis by the Advertising Standards Council of India (ASCI) and the law firm Khaitan & Co. claimed that in this era of artificial intelligence, legal implications like copyright infringement are necessary. In addition, there are ongoing debates over data security, AI biases, and ownership of information created by AI. We will always be baffled by copyright infringement with generative artificial intelligence. For example, a photographer named Boris Eldagsen stirred up controversy when he declined to accept the Sony World Photography Award, claiming that his winning shot was the result of GenAI. (Stanly Milin 2023).

Artificial intelligence (AI) in advertising raises several ethical concerns, including cybersecurity threats. AI algorithms are susceptible to hacking and cyberattacks, which may lead to losing sensitive personal information (Liu et al., 2020).

Companies can choose from a variety of tools, including Starry AI, Nightcafe, DALL-E 2, Jasper Art, and Midjourney. These tools use models trained on online photos that people post to the website, and they render images from a prompt text or image input. Other comparable platforms are Boomy for music, Movio for marketing, and ChatGPT for prose. (Stanly Milin 2023).

There are several obligations and ethical issues with responsibility when using AI in marketing. One of the main issues is that it can be challenging to assign blame when anything goes wrong. Complex and difficult-to-understand AI algorithms make it tough to define who is accountable for any subsequent difficulties (Floridi et al., 2018).

India does not acknowledge AI as a separate legal entity. As a result, it disqualifies AI-generated works produced without human involvement from being covered by copyright. As a result, advertisers will have no recourse in the event that third parties violate their use of AI-generated material and no legal ownership of it. Furthermore, if their clients are not the legitimate owners of AI-generated works, these marketing companies might have trouble fully transferring ownership to them.

According to the India Government, their awareness of AI is evident through the significant steps and initiatives of MeitY and NITI Aayog and the recently proposed Digital India Act in regulating cyberspace which can be a glimmer of light at the end of the tunnel.

In association with Khaitan & Co., the Advertising Standards Council of India (ASCI) released a white paper titled "Generative AI and Advertising - Opportunities, Risks and Best Practices." The white paper, in particular, addresses the legal ramifications and major difficulties associated with the use of generative artificial intelligence (AI) in marketing and advertising. It also offers organisations best practices and things to think about before implementing generative AI in advertising.

The white paper covers a number of topics, including the various regulations that may be relevant, how consumer protection and generative AI interact, and important hazards such as AI bias, privacy issues, creative displacement, and copyright issues. Additionally, it makes suggestions for reducing risk. To guarantee appropriate activities, ethical issues pertaining to transparency, must be taken into account. Regulations and ethical standards that prioritise accountability, openness, and justice can direct the creation, use, and usage of AI technology in content creation. Experts must work together to negotiate the legal implications of AI-generated content and promote an ethical and inclusive system.

## Conclusion

AI in advertising has a bright future ahead of it. AI will improve customer targeting, personalization, and predictive analytics' accuracy and efficiency as it develops further. Businesses that want to remain competitive and provide outstanding customer experiences will have to embrace AI. In order to meet the obstacles and seize the potential presented by the legal issues of AI-generated content, a thorough analysis and proactive approaches are necessary. One barrier related to accountability and responsibility is the absence of clear regulatory frameworks and standards for the use of AI in advertising. The unique challenges presented by AI systems may be outside the scope of current laws and regulations, leaving room for uncertainty and conflict over issues of accountability and responsibility. It is essential to create precise legal frameworks and regulations that address the unique challenges presented by AI systems in order to solve the question of duty and accountability when utilising AI in marketing. This entails describing the roles and duties that developers, marketers, and end users have while developing and putting into practice AI-powered advertising strategies. Further investigation and case studies are needed to assess the suitability and effectiveness of these solutions in different situations. This study may not accurately reflect the experiences or viewpoints of all parties involved in AI-powered advertising because it is mostly based on a survey of the literature. The application of artificial intelligence in advertising has ethical and regulatory issues that highlight the need for a more comprehensive theoretical framework to direct the creation and application of AI-powered marketing strategies.

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