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AI VIRTUAL PERSONAS IN ADVERTISING: NAVIGATING NEW REGULATORY RISKS

Rapid advances in artificial intelligence (“AI”) have significantly reshaped the advertising landscape. Virtual personas created using generative AI have emerged as a key tool in modern brand marketing. However, as the use of such virtual personas becomes more widespread, concerns over potential consumer deception are giving rise to new legal risks.

In response, regulatory authorities around the world, including the Korea Fair Trade Commission (“KFTC”), as well as those in the United States, the European Union, and China, have begun issuing increasingly robust guidelines aimed at enhancing transparency in advertising involving virtual personas and strengthening consumer protection.

This newsletter outlines the key features of the KFTC’s proposed amendments to its advertising guidelines on endorsements and testimonials, reviews major global regulatory trends, and highlights practical implications for businesses.

I. PROPOSED AMENDMENTS TO THE KFTC GUIDELINES ON ENDORSEMENTS AND TESTIMONIALS

In response to the rapid increase in advertising featuring virtual personas, the KFTC has proposed amendments to its “Guidelines for Review of Labeling and Advertising Relating to Endorsements and Testimonials.” The proposed amendments were pre-announced on April 8, 2026, and are expected to be finalized following a public consultation period ending on April 28, 2026.

A key feature of the proposed amendments is the explicit recognition of “virtual personas” as a distinct category of endorsers, along with enhanced disclosure requirements for commercial content.

1. Introduction of a New Category of Endorser: Virtual Personas

Under the current guidelines, endorsers are classified into four categories: consumers, celebrities, experts, and organizations. However, as virtual figures that are difficult to distinguish from real individuals increasingly appear at the forefront of advertising, the KFTC has introduced a fifth category: “virtual personas generated using AI or similar technologies.” As a result, advertisements utilizing AI-generated virtual consumers or experts will now fall squarely within the scope of regulatory oversight.

2. More Detailed Disclosure Requirements by Media Type

The proposed amendments set forth specific disclosure requirements to ensure that consumers can immediately recognize when an endorser is a virtual persona.

For text-based platforms such as blogs and online communities, advertisers must clearly indicate in the title or at the beginning of the post that the content includes an “AI-generated virtual persona.”

For visual media, including images and videos, the label “virtual persona” must be displayed continuously on the screen in close proximity to the featured persona. This requirement is intended to prevent deceptive practices, such as placing disclosures only briefly at the end of a video or using text that is difficult to notice.

3. Restrictions on Claims Based on Personal Experience

One of the most notable aspects of the proposed amendments is the restriction on claims implying personal experience. Because virtual personas do not have a physical existence and cannot actually use products, expressions such as “I tried it myself” or “I experienced its effects firsthand” may be deemed misleading. Accordingly, the use of testimonial-style narratives in marketing involving virtual personas is likely to be significantly restricted going forward.

II. GLOBAL REGULATORY TRENDS ON AI VIRTUAL PERSONA ADVERTISING

From a global regulatory perspective, a common principle is emerging: consumers must be able to clearly recognize when content is generated by AI. The KFTC’s proposed amendments are aligned with this broader international trend toward enhanced transparency.

1. United States

In its revised “Endorsement Guides” published in 2023, the Federal Trade Commission (“FTC”) clarified that virtual endorsers are subject to the same transparency standards as human endorsers. A central principle of the FTC’s framework is that any “material connection” between an advertiser and an endorser that could affect consumers’ purchasing decisions must be disclosed in a manner that is clear and conspicuous.

2. European Union

The European Union has introduced transparency obligations for AI-generated content under Article 50 of the AI Act, which is scheduled to take effect in August 2026. Providers of AI systems are required to implement measures—such as watermarking—to indicate that content has been generated by AI. In addition, distributors of deepfake content must disclose that such content has been artificially created. Notably, commercial advertising does not benefit from the limited disclosure exceptions applicable to artistic or satirical works, meaning that full transparency obligations apply.

3. China

China has adopted detailed and technical labeling requirements for AI-generated content. These include not only “explicit labels” clearly visible within the content, but also “implicit labels” embedded in the metadata of AI-generated files, such as information on the service provider and the time of creation. Such implicit labeling requirements are designed to ensure traceability of the original source even where content is redistributed or modified, thereby helping to prevent the spread of misinformation involving deepfakes.

III. PRACTICAL IMPLICATIONS FOR BUSINESSES

Companies seeking to utilize AI virtual personas should establish a strategic compliance framework aligned with increasingly stringent global regulatory requirements. In particular, marketing and legal teams should proactively review the following key areas:

1. Internal Assessment

Companies should conduct a comprehensive review of existing marketing content to identify instances where AI virtual personas are used. Particular attention should be given to industries such as health supplements, medical devices, cosmetics, and education, where restrictions on claims based on personal experience are likely to be more strictly enforced.

2. Standardized Disclosure Templates and Guidelines

Companies should adopt standardized disclosure language consistent with that set out in the proposed amendments and implement internal guidelines on the placement and duration of on-screen disclosures, particularly for video content.

3. Dual Disclosure Obligations

Advertising content involving AI virtual personas will be subject to dual disclosure requirements: (i) existing requirements to disclose any paid or sponsored content (e.g., paid promotion), and (ii) the new requirement to disclose that the endorser is an AI-generated virtual persona. For global campaigns, companies should be mindful that standards may vary across jurisdictions and consider aligning their practices with the most stringent requirements.

4. Contractual Safeguards

When entering into agreements with advertising agencies or content creators, companies should include provisions addressing: (i) prior disclosure obligations regarding the use of AI virtual personas, (ii) mandatory inclusion of required disclosure language in accordance with applicable guidelines, and (iii) allocation of liability in the event of non-compliance.

5. Substantiation of Claims

Where AI virtual personas are used to communicate product performance, companies should ensure that objective evidence, such as technical data or clinical trial results, is available to substantiate such claims.

IV. CONCLUSION

The KFTC has indicated in its 2026 annual plan that it will expand the scope of its monitoring of social media advertising to cover AI-related misuse, while also strengthening the Korea Consumer Agency's monitoring and enforcement framework for unfair AI-driven advertising. Once the proposed amendments to the guidelines take effect, increased regulatory scrutiny of advertising involving AI virtual personas is expected.

Regulation of virtual persona advertising is becoming increasingly sophisticated in line with technological advancements. This trend underscores that transparency is no longer merely a

regulatory requirement, but an important component of brand credibility. Companies should therefore establish an integrated governance framework involving legal, marketing, and technical teams, and closely monitor regulatory developments across jurisdictions.

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