



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

IS YOUR INFLUENCER SECRETLY AN AI? THE NEW 2026 DISCLOSURE LAWS

~ *Shivansh Sharma*

You're scrolling through Instagram when you see a creator that catches your attention. The lighting is hitting just right, their delivery is flawless and based on their recommendation, you maybe even click on the link to buy the product. But one question you probably didn't ask: *Was that person even real?*

That question is no more hypothetical. With the rampant increase in the use of AI in various industries, the digital marketing industry isn't far behind. AI-generated influencers are growing in number and regulators across the world have decided that audiences deserve to know the "person" selling them something is entirely a product of artificial intelligence.

THE RISE OF SYNTHETIC INFLUENCERS

AI-generated influencers aren't a new. Virtual personas have existed in the brand campaigns for years. But one thing which must concern us is the change in *realism*. Today's AI-generated likenesses are nearly indistinguishable from real humans.

For brands, this is obviously a dream come true as it allows them to bypass the unpredictability of human influencers and maintain total creative control. But this level of control comes with a legal catch. The moment a synthetic persona misleads a consumer, it stops being clever marketing and becomes deception.

WHAT THE LAW SAYS

1. INDIA TAKES A STRONG STAND

Ministry of Electronics and Information Technology (MeitY) stepped up and amended the Information Technology Rules, 2021 and this time the changes had real teeth. These amendments, for the first time, brought deepfakes and AI-generated content under a formal

legal framework which was something India had been putting off for too long. What this means practically is that any AI-generated content now needs to carry a visible label telling you exactly what it is. Platforms can no longer sit back and wait for complaints either. They are now legally required to catch this content before it spreads.¹

One of the most aggressive provisions is around speed. The amendment introduced a drastic reduction in the takedown timeline from 36 hours down to just three hours for flagged unlawful AI-generated content.

The Advertising Standards Council of India (ASCI) updated its code in 2026 and what it now demands from brands is pretty straightforward, if your influencer is AI then say so. Loudly. For videos specifically you cannot bury the disclosure at the end and call it done. It needs to show up within the first five seconds so viewers know immediately what they are watching. The fines are not something you want to test either. First time offenders are looking at ₹10 lakh and repeat offenders can be hit with up to ₹50 lakh. Worse? Both the brand and the agency share the blame.²

And if one thinks that ASCI alone is not scary enough the Consumer Protection Act backs it up. This means the government itself can step in and penalties go well beyond what ASCI can impose on its own.³

2. NEW YORK LEADS IN THE U.S.

New York has passed the most significant American legislation on this issue so far. The state's new synthetic performer disclosure law requires advertisers to clearly disclose when their ads feature AI-generated personas and carrying penalties ranging from \$1,000 to \$5,000 per first offense, scaling up to \$10,000 for repeat violations. It also explicitly prohibits presenting AI-generated content as the genuine personal opinion of a real human individual directly targeting fake testimonials and synthetic influencer content.⁴

¹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, G.S.R. 120(E) (India Feb. 10, 2026), available at <https://www.meity.gov.in/static/uploads/2026/02/550681ab908f8afb135b0ad42816a1c9.pdf>.

² Advert. Standards Council of India, Guidelines for Influencer Advertising in Digital Media (updated 2026), available at <https://ascionline.in/social/guidelines> (last visited May 10, 2026).

³ The Consumer Protection Act, No. 35 of 2019, India Code (2019), available at <https://consumeraffairs.nic.in/acts-and-rules/consumer-protection-act-2019>.

⁴ Act of Dec. 11, 2025, S.8420-A/A.8887-B, 2025-2026 Leg., 248th Sess. (N.Y. 2025) (amending N.Y. Gen. Bus. Law § 396-b) (effective June 9, 2026), available at <https://www.nysenate.gov/legislation/bills/2025/S8420/amendment/A>.

3. EUROPE'S DEADLINE IS APPROACHING

The EU AI Act's transparency obligations for AI-generated and AI-manipulated content come into full effect in August 2026, with the European Commission already releasing draft Codes of Practice to guide compliance.⁵

THE “#AD” TAG ISN'T ENOUGH ANYMORE

Slapping a “#ad” or “#sponsored” label on a post has been the standard practice for years. It tells the audience one thing that there is a commercial relationship between the creator and the brand. But here is what it does not tell them: whether the person they are watching actually exists.

That distinction matters more than ever now. An ad disclosure covers the money trail. It says nothing about whether the face, voice, or personality delivering that recommendation was generated by an algorithm. These are two completely separate things and regulators are now treating them that way.

Under the 2026 ASCI guidelines, a virtual influencer cannot simply tag a post as sponsored and move on. If the influencer is AI, then the audience needs to know that upfront. Not in the fifth line of a caption. Not under a pile of hashtags. Right there on the content itself.

The same logic applies globally. In the United States, the FTC's position in 2026 is that disclosures must be obvious to an average viewer immediately and not technically present somewhere on the page.⁶ MeitY took it even further. Every piece of AI-created public content now needs a visible label so audiences know exactly what they are looking at. A hashtag was never built to carry that kind of responsibility and honestly it shows.

Think of it this way. A “#ad” tag tells you someone got paid. What you also now need to know is whether there was even a real “someone” to begin with.

WHAT THIS MEANS FOR YOU

⁵ Commission Regulation (EU) 2024/1689 of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act), art. 50, 2024 O.J. (L 1689) 1 (effective Aug. 1, 2024; art. 50 obligations applicable from Aug. 2, 2026).

⁶ Fed. Trade Comm'n, Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 C.F.R. § 255 (2024), available at <https://www.ftc.gov/legal-library/browse/rules/guides-concerning-use-endorsements-testimonials-advertising>.

Whether you are a brand, a creator, or simply someone scrolling through Instagram, these laws affect you directly.

For brands, AI disclosure is no longer a post-production afterthought. It needs to be built into the campaign from day one. Getting it wrong does not just mean fines, it means losing audience trust which is far harder to recover.

For creators who license their likeness for AI use, protections are emerging. Contracts that allow unauthorized AI use of your identity are increasingly being challenged in court.

For audiences, this is simply about the right to know. When you act on a recommendation, you deserve to know whether it came from a person or a program.

THE BOTTOM LINE

The era of undisclosed AI influencers is closing fast in India and across the world. Transparency is no longer just good ethics. In 2026 it is the law.