

# GENERATIVE AI AND ADVERTISING

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Opportunities, Risks and Best Practices

# Introduction

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Generative Artificial Intelligence (AI), fuelled by recent advancements in artificial intelligence, is gaining massive traction across various industries. It involves using large language learning models to generate original content based on input data and prompts. The adoption of generative AI, driven by models like OpenAI's 'Generative Pre-Trained Transformer' (GPT), Google's 'Bard', Midjourney Inc's 'Midjourney', Adobe's 'Firefly', is increasing at a quick pace. In the advertising sector, generative AI is particularly prominent given the way it has revolutionized content creation, customer engagement, and back-end operations.

Using generative AI tools, advertisers can automate creation of original content, including text, images, articles, and marketing collaterals. It also enhances customer experiences through chatbots, self-service solutions, AI assistants, and interactive advertising. Additionally, back-end operations are streamlined with increased efficiency by automating tasks, analysing data, and optimizing advertising practices such as SEO. Historically, we have seen that all new technologies have the potential to reshape the way businesses work, and AI is no different.

However, while generative AI offers numerous benefits in terms of efficiency, cost reduction, and productivity, the current nascent AI landscape also introduces some inherent legal risks and challenges, that advertisers must consider, such as issues around ownership of AI generated content, data security, inherent AI bias, authenticity of prompts etc. While the regulatory framework for AI evolves, it's critical for advertisers to be aware of the existing regulations and legal principles to safeguard against these risks and to ensure ethical use of generative AI.

To address these issues, Khaitan & Co and the Advertising Standards Council of India (ASCI) have collaborated to present a white paper. This document sheds light on the legal implications and key challenges associated with using generative AI in advertising and marketing. It also provides businesses with important considerations and best practices to evaluate before deploying generative AI for advertising operations.

Undoubtedly, generative AI is transforming the advertising industry by revolutionizing content creation, customer engagement, and back-end operations. However, advertisers must be mindful of the legal risks and challenges associated with use of AI. By implementing best practices, businesses can leverage the power of generative AI while ensuring compliance and ethical conduct in their advertising endeavours.



**Tanu Banerjee**  
Partner  
**Khaitan & Co**

# Foreword

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In this ever-evolving era of technological advancements, the power of artificial intelligence (AI) has emerged as a force to be reckoned with. Among its many applications, generative AI stands out as a game-changer, capable of producing advertising and creative content. However, as we delve deeper into the realm of generative AI, it becomes crucial to ensure consumer protection and establish ethical boundaries.

Consumer protection has always been a cornerstone of a healthy marketplace, but with the advent of generative AI, new challenges and opportunities have arisen. This ground-breaking technology has the potential to revolutionize industries and elevate the consumer experience, but it also raises concerns about potential misuse and manipulation.

In this white paper, we explore the intersection of consumer protection and generative AI, shedding light on the importance of safeguarding consumer rights in this rapidly evolving landscape. We look at the regulatory and legal frameworks that users of generative AI need to keep in mind. Advertisers and creators must aim to navigate the fine line between embracing innovation and maintaining responsible practices that prioritize the well-being and trust of consumers.

As generative AI becomes more prevalent across various sectors, it is crucial to address key issues such as privacy, data security, transparency, and accountability. In relevant cases, consumers must have the right to know when they are interacting with AI-generated content, ensuring informed decision-making and avoiding any potential manipulation or misinformation.

Additionally, educating consumers about generative AI and its capabilities is paramount. By fostering digital literacy and awareness, individuals can make informed choices and understand the extent to which AI may influence their experiences, be it in advertising, customer service, or content creation.

Ultimately, striking a balance between innovation and consumer protection in the realm of generative AI requires collaboration among various stakeholders. Governments, regulatory bodies, industry leaders, and AI developers must come together to establish comprehensive frameworks that safeguard consumer rights, promote responsible AI practices, and foster trust in the transformative potential of this technology.

As we embark on this journey, it is our collective responsibility to empower consumers, protect their privacy, and ensure they have a voice in shaping the future of generative AI. By embracing consumer protection as an integral part of AI development and deployment, we can pave the way for a more equitable, transparent, and ethical AI-powered world.



**Manisha Kapoor**

CEO & Secretary General

**The Advertising Standards Council of India**

# Applicable regulations and legal frameworks in India

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In India, the advertising sector operates under a self-regulatory regime governed by the Advertising Standards Council of India (ASCI) and its Code of Self-Regulation also known as 'The ASCI Code'.

Established in 1985 to ensure fair, honest, and decent advertising practices, ASCI looks at advertisements across all media types and formats such as TV, print, digital, outdoor, radio, point of sale, claims made on packaging and so on. ASCI works closely with different stakeholders including the government in the matter of consumer protection. ASCI's code is part of The Advertising Code enshrined within the Cable TV Networks (Regulation) Act, 1994, providing it with a legal backstop.

ASCI's independent jury (The Consumer Complaints Council or CCC) comprises of 40 eminent professionals, both from the industry and a large majority from the civil society, who review complaints weekly, and provide their recommendations. ASCI also has a mechanism to contest a CCC recommendation and engages with four retired high court judges hear appeals from complainants or advertisers and review cases. Compliance rates with ASCI's directions and guidelines are generally high, making them crucial for industry practices.

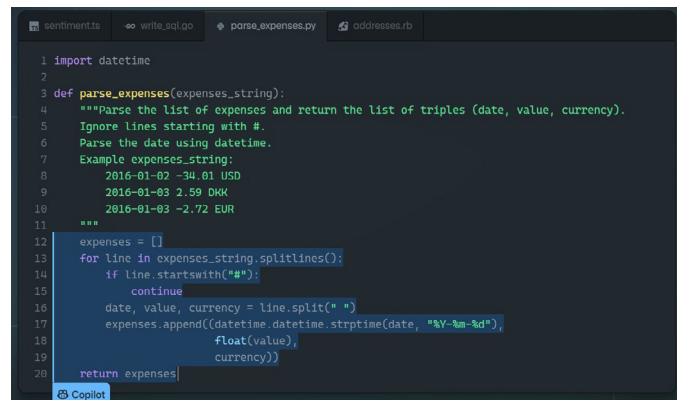
Apart from the ASCI Code, advertising regulations in India are governed by the Consumer Protection Act 2019 (CPA) and sector-specific regulations such as the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, Foods Safety and Standard Authority of India's regulations for foods and beverages, BIS standards etc., are applicable. The CPA prohibits unfair trade practices, including false or misleading advertisements, and empowers the Central Consumer Protection Authority (CCPA) to investigate complaints and issue orders for violations. The Guidelines for Prevention of Misleading Advertisements and Endorsements issued under the CPA outline criteria for permissible advertisements and restrictions on misleading claims.

Advertisers and marketing agencies must ensure that AI-generated advertisements comply with applicable laws and regulations. Regardless of whether the content is created by AI tools, the advertiser, brand, publisher, or endorser may be held liable for any legal violations in the advertisement.

It is important for advertisers and agencies to familiarize themselves with the ASCI Code, sector-specific regulations, and the guidelines under the CPA to ensure compliance and avoid legal issues related to AI-generated advertising content.



# Copyright Law

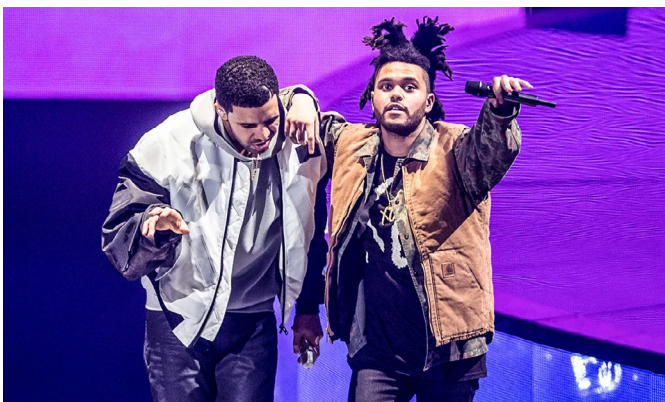


## Text<sup>1</sup>

Conversational AI chatbots such as GPT and Bard can produce text in natural language.

## Computer Code<sup>2</sup>

GitHub's 'Copilot' was launched in 2022 to assist developers to write computer code.



## Music<sup>3</sup>

AI-Generated and cloned voices of 'The Weeknd' and 'Drake' were uploaded as a song and was streamed over 15 million times before it was taken down.



## Images<sup>4</sup>

Photographer Boris Eldagsen refused a Sony world photography award, revealing his winning image was AI-generated, sparking debate on AI's role in photography.

<sup>1</sup><https://cosmosmagazine.com/technology/ai-tool-chatgpt/>

<sup>2</sup><https://theconversation.com/so-this-is-how-it-feels-when-the-robots-come-for-your-job-what-githubs-copilot-ai-assistant-means-for-coders-185957>

<sup>3</sup><https://slate.com/technology/2023/04/drake-weeknd-ai-single-ghostwriter-tiktok-heart-on-my-sleeve.html>

<sup>4</sup><https://www.theguardian.com/artanddesign/2023/apr/18/ai-threat-boris-eldagsen-fake-photo-duped-sony-judges-hits-back>



## Videos<sup>5</sup>

AI has been used to generate audio-visual media and communicate the same to the public at-large.

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The Copyright Act of 1957 (Copyright Act) is the governing law for copyright protection in India. It provides legal protection for original works in various categories, including literary, dramatic, musical, and artistic works. However, the definition of an 'author' under the Copyright Act is not limited to specific roles or individuals. The Act defines an author as the person who creates the work, which may include writers, composers, artists, photographers, and others who contribute to the creation of the work. Ownership of copyright can be claimed by the original author or by individuals or entities who have acquired the rights from the author through assignments or other legal means.

Under the Copyright Act, ideas, knowledge, or concepts themselves are not copyrightable. Copyright protection is granted to the expression of those ideas in various forms,

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<sup>5</sup><https://www.polygon.com/23767640/ai-mcu-secret-invasion-opening-credits>

<sup>6</sup>[https://www.youtube.com/watch?v=UVNZ3\\_FwqJE](https://www.youtube.com/watch?v=UVNZ3_FwqJE)

## Interactive Media<sup>6</sup>

AI has been used in interactive media such as games to create unscripted dialogues and player-interactions. Inset is a still image from a video uploaded to YouTube of integration of ChatGPT with a video game.

such as literary, dramatic, musical, or artistic works. The author of a work holds the right to claim authorship and has exclusive economic rights, including the right to reproduce, distribute, perform, make derivative works, lease/rent, commercialize, or communicate the work to the public for their own benefit.

Regarding AI-generated content, the protection under the Copyright Act is currently unclear. Section 17 of the Act states that the author of a work shall be the first owner of the copyright. However, AI does not have legal status in India, and an AI tool cannot be considered an 'author' or 'owner' of the works it creates. This raises questions about the rights of the programmer or user providing instructions and whether moral rights are violated if AI-generated content is distorted or mutilated.



While the law in this area is still uncertain and subject to debate, there was an interesting case in 2020 where an AI tool was recognized as a co-author. The Indian Copyright Office granted copyright registration for a digital image created by an AI application named RAGHAV (Robust Artificially Intelligent Graphics and Art Visualizer). Initially rejected as a singular author, RAGHAV was later listed as a co-author along with a human being.

In summary, while the legal status of AI-generated content and the associated rights are yet to be clearly defined, there are instances where AI has been acknowledged as a co-author. The topic remains an ongoing area of discussion and exploration within copyright law.

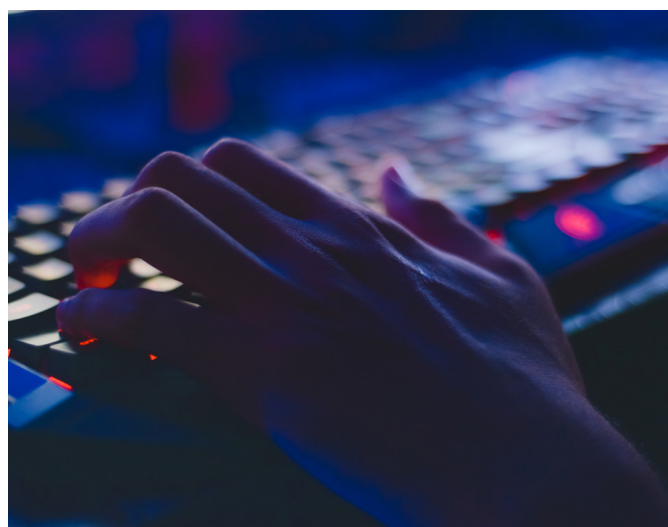
## Trademark Law

Under the Trade Marks Act of 1999 (TMA) and common law principles, a mark or visual symbol that can be represented graphically and distinguishes goods and services can be protected as a trademark. The TMA defines 'distinctiveness' as the ability of a mark to differentiate the goods or services of one person from those of another. The Act also considers trademarks that appear confusingly similar to existing trademarks as infringing upon the rights of the trademark owner.

While the TMA does not explicitly address the origin or creation of trademarks, it provides legal protection for registered trademarks. However, unregistered trademarks can still be protected under common law if they are distinctive and have been used in commerce. In the case of *S Syed Mohideen v P Sulochana Bai*,<sup>7</sup> the Supreme Court of India recognized and upheld the common law rights for the protection of unregistered trademarks against 'passing off.' Passing off refers to the unauthorized use of a trademark that may cause confusion or deceive consumers.

<sup>7</sup>(S. Syed Mohideen v. P. Sulochana Bai (2016) 2 SCC 683

To summarize, the Trade Marks Act and common law principles provide protection for trademarks that can be graphically represented and distinguish goods or services. Registered trademarks are protected under the TMA, while unregistered trademarks can still receive protection under common law if they meet the criteria of distinctiveness and commercial use.



## Information Technology Act 2000

The Information Technology Act of 2000 (IT Act 2000) is the governing law for internet activities in India. It prohibits the uploading, transmission, storage, sharing, or hosting of offensive content, impersonation, privacy violations, cyber-terrorism, obscenity, and child sexual abuse material.

Under the IT Act 2000, organizations or individuals that solely host, transmit, or store content on behalf of others are protected under the 'safe harbour' provision. However, this protection is conditional upon their involvement in publishing or sharing prohibited content on their platforms, and their compliance with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 (IT Rules 2021).



The IT Rules 2021 impose certain obligations on intermediary platforms, such as social media platforms (e.g., Facebook, Instagram, Twitter), including:

- Conducting due diligence measures.
- Ensuring that users do not upload, transmit, or publish prohibited content under the IT Rules 2021.
- Removing or disabling access to any prohibited content upon receipt of a legal notice or order from a court of law or government agency.

The Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Information) Rules 2011 (SPDI Rules 2011) regulate the collection, storage, and transfer of personal information or sensitive personal data.

Additionally, the Ministry of Electronics, Information & Technology (MEITY) has initiated public consultations for the Digital India Act (DIA), which aims to revamp the IT Act 2000. The government has indicated that AI will be a key area of regulation under the DIA, adopting a user-harm-centric approach.

To summarize, the IT Act 2000 governs internet activities in India and prohibits various forms of offensive content. The IT Rules 2021 impose obligations on intermediary platforms, while the SPDI Rules 2011 regulate personal information. The upcoming DIA will focus on regulating AI and prioritizing user protection.





# Key legal risks and challenges for advertisers in the use of generative AI

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## Copyright Ownership

Currently, AI is not recognized as a legal entity in India. As a result, works or materials solely generated by an AI tool without human involvement may not be eligible for copyright protection under Indian law. This means that advertisers may not have legal ownership of AI-generated works and may have limited recourse in case of infringement by third parties. Furthermore, marketing or advertising agencies may face challenges in transferring full ownership of creative content to their clients if they are not considered the rightful owners.

## Potential Infringement

Generative AI models can utilize two types of data:

1. **Training data:** This data is often obtained from the public domain without specific permission. However, if the AI service provider or user hasn't obtained appropriate permissions from the data's

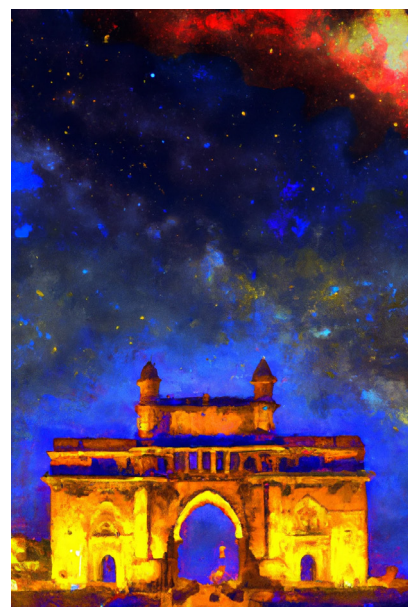
original owners, they could be at risk of potential copyright infringement. It is essential to conduct due diligence to ensure that the AI model is trained on data with a valid license for commercial use.

For example, Adobe's generative AI tool called 'Firefly' discloses that it uses a dataset comprising Adobe Stock images, openly licensed content, and public domain content where the copyright has expired.


2. **User input:** It is challenging to identify the exact source or inspiration of a user's input. However, if the data provided by an individual is based on or resembles pre-existing copyrighted works, the generated output by the AI could potentially be considered infringement.

To illustrate this in the context of advertising and marketing, let's consider a practical example. Suppose we entered the following prompt on an open AI platform: *'Create a watercolour painting of the Gateway of India in Mumbai, interpreted in the distinctive, swirling, and vivid style of Vincent van Gogh's painting, Starry Night, with the night sky flowing out into a galaxy.'*

This gave us the image as seen below.



AI-generated content (image) with the prompt set out in the paragraph above



When creating an image to promote tourism in Mumbai, an advertiser might use an image that resembles the distinctive style of Vincent van Gogh's 'Starry Night.' However, since van Gogh's artworks are now in the public domain, the rendered image would not be considered a derivative work of a copyrighted piece. As a result, the advertiser may be entitled to separate copyright protection for the image.

## Nature of Content

The use of generative AI in creating content for advertisements comes with potential risks related to prohibited content. The IT Rules in India prohibit certain types of content, and there are mechanisms in place to enforce claims against unlawful content by self-regulatory bodies and Indian authorities. It is important for advertisers to analyse the risks associated with generative AI and ensure compliance with these rules.

Creating an advertisement involves various elements such as visuals, content, endorsers, and inputs from advertisers, marketers, agencies, and brands. The AI tool itself may not have awareness of the specific categories of prohibited content outlined in Indian regulations. Therefore, the responsibility to prevent the creation or display of prohibited content in advertisements lies with the advertiser or the agency.

## Privacy Concerns

In addition to prohibited and unlawful content, the use of generative AI in advertising poses risks related to the use of proprietary personal data, including sensitive personal information. For instance, GPT-4's technical report mentions the use of publicly available personal data for training the AI model.<sup>8</sup>

While current data privacy regulations in India may not impose obligations when using publicly available information, other jurisdictions like the European Union have stricter compliance requirements regarding user consent for data storage and processing. Safeguards should be implemented to prevent compromise or breaches of sensitive personal data throughout the deployment of generative AI systems, including data collection, storage, and transmission processes.

When deploying generative AI tools for customers or third parties, such as chatbots, advertisers and businesses should ensure that users or third parties are restricted from inputting personal or sensitive information. This risk can be mitigated by incorporating click-wrap agreements in the terms and conditions, making it clear that personal information is prohibited content.

Advertisers may also consider using generative AI tools that are trained to reject personal information or simply not provide results when such data is inputted. It is important for advertisers, marketing agencies, and brands to train their employees not to input confidential or sensitive information into the generative AI tool during the training or customization process.

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<sup>8</sup>[gpt-4.pdf \(openai.com\)](#)



## The AI Bias

When training generative AI models with data from open sources or the internet, there is a risk of biases, misinformation, and misleading data being reflected in the output. This can result in false, biased, or misleading information being generated. Biases can also arise from limited diversity in datasets, including the underrepresentation of various cultures, races, and ethnicities. Gender biases may also be present, reflecting historical stereotypes about the roles and capabilities of men and women.

It's important to recognize that the effectiveness of an AI tool depends on the quality of its underlying training data. Currently, there is a concern regarding the predominance of English language data and models, which may disadvantage non-English speakers or those outside of the Global North. As per a recent report titled 'The AI Index 2023 Annual Report' published by the Institute for Human-Centred AI, Stanford University<sup>9</sup>, concentration of AI research and development in the West can lead to linguistic discrimination and exclusion if global cooperation is not pursued.

## Creative Displacement

Using AI tools for creating copies of advertisements, marketing materials, and promotional content can be more cost-effective compared to employing copywriters. Platforms and tools like GPT-4, DALL E 2<sup>10</sup>, MidJourney<sup>11</sup>, Google Bard, and Adobe Firefly<sup>12</sup> offer competitive pricing or even free access during beta testing. The accessibility of generative AI services raises concerns about the potential displacement of creative labour.

The Writer's Guild of America (WGA) organized a nationwide strike in the US, addressing unfair practices in the television and online streaming industry, including the use of AI in creative work. The concern is that AI could lead to a loss of revenue for writers in these industries. However, experts suggest that in the near future, generative AI may complement human labour rather than completely replace it.



<sup>9</sup>[HAI AI-Index-Report\\_2023.pdf \(stanford.edu\)](#)



<sup>10</sup>[Pricing \(openai.com\)](#)

<sup>11</sup>[Midjourney Subscription Plans](#)


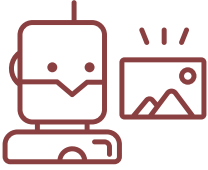
<sup>12</sup>[Bard \(google.com\)](#) | [Generative Fill - Adobe Photoshop](#) | [AI Art Generator - Adobe Firefly](#)

# Best Practices for Risk Mitigation



To mitigate the current risks associated with employing generative AI, the following best practices are recommended.

#	RISKS	MITIGATION
1	 <p>Commercial Use of AI Output</p>	<p>When using an AI platform for creative purposes, it is important to review and understand the platform's terms of use. Verify that the output generated by the AI tool can be used for commercial purposes. Additionally, carefully assess the contractual terms with the AI service provider, including any disclaimers regarding originality and infringement.</p> <p>Conduct due diligence to ensure that the AI service provider has obtained the necessary licenses for the training data used. This will help mitigate liability risks associated with using the AI output.</p>
2	 <p>Potential Infringement</p>	<p>When using generative AI tools, it is important to review the input prompts to avoid generating infringing content. Prompts that mimic a specific artist or use copyrighted material can potentially lead to infringement. It is also crucial to ensure that any materials uploaded as input have the necessary authorizations for commercial use.</p> <p>Obtaining licenses and permissions for AI-generated works, including copyrighted material, trademarks, and third-party content or data, is essential.</p>



#	RISKS	MITIGATION
3	 <p>Prohibited Content</p>	<p>When using generative AI tools, it is important to avoid using input prompts that contain prohibited materials or data according to the applicable laws.</p> <p>Additionally, before using the output generated by the AI tool for commercial purposes, it should be carefully checked to ensure that it does not include any prohibited content as per the relevant laws.</p>
4	 <p>AI Actions and AI Bias</p>	<p>To mitigate the risk of liability for discriminatory, biased, inaccurate, or misleading content generated by generative AI tools, consider the following actions:</p> <ol style="list-style-type: none"><li>Implement a content review process and regularly monitor the AI system's output for compliance.</li><li>Review prompts carefully or establish robust guidelines to prevent the creation of undesirable content.</li><li>Include appropriate disclaimers about AI use in marketing materials, user interfaces, terms of use, etc.</li><li>Maintain appropriate insurance coverage to address any potential claims.</li><li>Train AI systems on diverse and representative datasets to reduce biases and improve accuracy.</li><li>Develop and follow ethical guidelines for using AI in marketing activities, emphasizing respect for human dignity, fairness, and transparency.</li></ol>



#	RISKS	MITIGATION
5	 <p>Confidential Information, Data Privacy and Security</p>	<p>To address the risk of confidential information and ensure data privacy and security when using AI tools, consider the following measures:</p> <ul style="list-style-type: none"><li>a. Implementing comprehensive and enforceable non-disclosure agreements that clearly define the types of content restricted from being inputted into AI tools.</li><li>b. Developing standard operating procedures that outline how personal information is handled and implementing strong data privacy and security measures in accordance with relevant laws and regulations.</li></ul>
6	 <p>Displacement of creative human labour</p>	<p>To enhance the capabilities of human labour, it is important to invest in upskilling efforts, particularly in the areas of editorial oversight and compliance.</p>

# Future Outlook

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The future of AI holds immense potential, offering opportunities for innovation and transformative impact across various industries. However, it also presents unique challenges that need to be addressed for its responsible and ethical deployment.

Stakeholder engagement is a critical aspect of navigating the complex landscape of AI. It involves involving and consulting all parties involved in the AI value chain, including developers, policymakers, industry experts, users, and the public. By actively engaging with stakeholders, a comprehensive understanding of their perspectives, concerns, and expectations can be gained, leading to more informed decision-making and the development of effective policies and regulations.

In India, the government has demonstrated its awareness of the advancements in AI and the need for proactive measures. Initiatives by the Ministry of Electronics and Information Technology (MEITY) and the NITI Aayog, such as publishing reports on AI<sup>13</sup>, indicate a commitment to fostering growth while addressing potential challenges. The proposed Digital India Act, which aims to overhaul internet regulations, is expected to include provisions for AI regulation, reflecting the government's recognition of the significance of AI technologies.

Principles such as fairness, accountability, transparency, and ethics have gained broad

agreement within the AI community. These principles serve as guiding principles for the responsible development and deployment of AI systems. By adhering to these principles, AI systems can be designed to ensure fairness in decision-making, accountability for their actions, transparency in their operations, and ethical considerations in their impact on individuals and society.

Learning from global perspectives is crucial for harmonizing regulatory standards and aligning with international best practices. The Artificial Intelligence Act (EU AI Act),<sup>14</sup> currently being negotiated in the European Union, sets out regulations for AI systems, including prohibitions on the use of subliminal techniques and the deployment of remote biometric identification systems for law enforcement purposes. By examining such regulations and engaging in international discussions, India can gain valuable insights and contribute to the development of a global framework for responsible AI deployment.

Formulating effective policies and regulations is paramount to guide the adoption and impact of AI in India. Regulators play a vital role in ensuring that AI technologies are developed and used in a manner that safeguards individuals' rights, promotes fairness and inclusivity, and mitigates potential risks. These policies should strike a balance between fostering innovation and addressing concerns related to privacy, security, bias, and the impact on the workforce.

By engaging stakeholders and incorporating global learnings, India can establish a robust regulatory framework that not only addresses the challenges associated with AI but also fosters technological advancement, drives economic growth, and creates opportunities for businesses across sectors. This collaborative approach will help build trust, encourage responsible AI practices, and maximize the benefits of this transformative technology for society as a whole.

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<sup>13</sup>Artificial Intelligence Committees Reports | Ministry of Electronics and Information Technology, Government of India ([meity.gov.in](https://meity.gov.in));

<https://niti.gov.in/sites/default/files/2020-07/Responsible-AI.pdf>;

<https://niti.gov.in/sites/default/files/2020-11/Towards-Responsible-AI-Enforcement-of-Principles.pdf>.

<sup>14</sup>Draft Digital India Act will regulate emerging technologies to protect citizens: Rajeve Chandrasekhar - The Hindu BusinessLine.

## ABOUT KHAITAN & CO

With over 1000 lawyers, 220 Partners, a robust pan-India footprint and an international presence in Singapore, Khaitan & Co is one of India's largest and premier full-service law firms, delivering excellence for over a century. In the past decade, we have grown leaps and bounds, staying ahead of the curve and focusing on technology-driven, innovative solutions to new challenges.

Our teams, comprising a powerful mix of seasoned senior lawyers with volumes of experience and many dynamic rising stars in the Indian legal space, offer customised and pragmatic solutions that are best suited to our clients' unique requirements. Be it long-standing relationships with old clients, or fresh journeys we embark upon with new clients, unwavering trust is a common thread running through each one.

The Firm acts as a trusted advisor to the biggest names in business from across the globe, including top Indian and multinational corporations, financial institutions, governments, regulators, and international law firms.

Our specialist lawyers are always abreast with the latest developments in their domain and possess a nuanced understanding across sectors and jurisdictions. From mergers and acquisitions to intellectual property, banking to taxation, capital markets to dispute resolution, and rapidly evolving areas such as white-collar crime, data privacy, art law, anti-trust and competition law, Khaitan & Co has strong capabilities and deep industry knowledge across practices. Being a full-service firm with strong synergies across teams, we are uniquely poised to offer holistic advice that are tailored to our clients' long-term strategic goals.

We are increasingly agile, responsive, specialised and dynamic – armed with some of the best minds in the Indian legal industry, the latest technology and deep insight into India's complex regulatory landscape, ready to tackle any unprecedented challenges that the changing world may give rise to.

To know more, visit [www.khaitanco.com](http://www.khaitanco.com)





## **ABOUT THE ADVERTISING STANDARDS COUNCIL OF INDIA**

### **Company History**

Established in 1985, The Advertising Standards Council of India (ASCI) is the self-regulatory body of the Indian advertising industry. ASCI resolves issues around:

- Dishonest or misleading ads
- Indecent or offensive ads
- Harmful ads
- Ads that are unfair in competition

ASCI looks at advertisements across all media types and formats such as TV, print, digital, outdoor, radio, point of sale, claims made on packaging and so on. ASCI works closely with different stakeholders in the matter of consumer protection. ASCI's code is part of The Advertising Code enshrined within the Cable TV Networks (Regulation) Act, 1994, providing it with a legal backstop.

### **Complaints Management**

ASCI's speedy, independent, and low-cost complaint management approach ensures that both consumers and the industry have the opportunity for a fair resolution. All stakeholders can register their complaints at no cost via WhatsApp at 77100-12345 or at [www.ascionline.in](http://www.ascionline.in)

- ASCI's independent jury (The Consumer Complaints Council or CCC) comprises 40 eminent professionals, both from the industry as well as from civil society, who review complaints on a weekly basis and provide their recommendations
- Four retired high court judges hear appeals from complainants or advertisers who may wish to contest a CCC recommendation
- Eminent technical experts from over 20 fields support the CCC and the Review Panel
- The AI-enabled online complaints management systems allow for swift and efficient processing of complaints against objectionable advertisements

## Advisory Services

With a view to supporting the industry get it right, ASCI has an offering of the 'ADVERTISING ADVICE' (AA) service. ASCI has long-established expertise in the area of advertising depictions, claims and representations, through its extensive panel of advertising and technical experts. ASCI's AA panel comprises of advertising experts and technical experts who are well-qualified and experienced specialists from several disciplines such as Ayurveda, Formulations, Microbiology, Electronics, Market Research, Nutrition, Financial services and so on. Many organisations voluntarily submit their ads at a pre-production stage to ASCI to receive non-binding advice on whether the ad potentially may violate any ASCI code. Small changes at the production stage can save a lot of hassle later. The advisory services provided by ASCI are not binding on the advertiser or its independent jury - the CCC. ASCI also offers an Endorser Due Diligence service to help endorsers meet their obligations to ensure that the ads they feature in do not make misleading claims and potentially violate the law.

## Training and Education

ASCI believes that the preventative footprint will allow for a more robust and responsible advertising ecosystem. We have already introduced some programs that are aimed at raising standards of advertising through education, awareness and research. Our research and insight reports, faculty development programs and student workshops as well as our well-established ASCI Masterclass for corporates are some of the initiatives that have already taken root at ASCI.

[www.ascionline.in](http://www.ascionline.in)



ASCI academy is supported by:



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