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COMMENTARY

*Synthetic Performers, Real Consequences: How AI Disclosure
Laws are Reshaping Digital Advertising*

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Artificial intelligence (AI) is changing how businesses market their products, from generating product images to creating lifelike digital people who appear to endorse goods and services. These tools offer companies new ways to reduce production costs and scale advertising campaigns. However, as synthetic performers become increasingly realistic, consumers may struggle to distinguish artificial representations from genuine human performances. Such confusion clouds informed consumer choice. Amazon's recent advertising policy change reflects a growing effort to address that problem, raising important questions about transparency, corporate responsibility, and the future of commercial advertising.

From Platform Policy to Legal Obligation

In July 2026, Amazon began requiring advertisers to disclose when their advertisements feature AI-generated synthetic performers.¹ Under the new policy, advertisers must identify qualifying assets containing synthetic performers when uploading them to Amazon Ads.² Amazon will display the disclosure where applicable, while advertisers using certain third-party advertising formats must include the disclosure directly in their creative materials.³ The policy followed New York's enactment of the nation's first law requiring disclosures for advertisements featuring synthetic performers.⁴

New York General Business Law § 396-b requires businesses that produce or create commercial advertisements to conspicuously disclose the presence of a synthetic performer when

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¹ N.Y. Governor's Press Office, *Governor Hochul Announces First-in-the-Nation Law Requiring Disclosure When Advertisements Include AI-Generated Synthetic Performers Is in Effect* (June 9, 2026), <https://www.governor.ny.gov/news/governor-hochul-announces-first-nation-law-requiring-disclosure-when-advertisements-include-ai>.

² *AI-generated People in Ads: New York State Disclosure Requirement*, Amazon Ads, <https://advertising.amazon.ad/help/GZZX6RJVMWBVBB6W>.

³ *Id.*

⁴ *Id.*

they have actual knowledge of its use.⁵ A first violation carries a \$1,000 penalty, with subsequent violations subject to \$5,000 penalties.⁶ The statute defines a synthetic performer as a digitally created, reproduced, or modified asset intended to create the impression of a human performance by someone who is not recognizable as an identifiable natural performer.⁷ The law also includes exceptions for audio-only advertisements and certain promotional materials for expressive works.⁸

Why Disclosure Matters to Business

For businesses, synthetic performers can offer substantial advantages. AI-generated figures can reduce the time and costs associated with traditional advertising production, including coordinating talent locations, and filming. Synthetic content can also make it easier to customize campaigns for different audiences. However, these efficiencies must be weighed against the potential consequences of misleading customers. As with any AI material, using synthetic performers raises questions about responsible AI use, particularly when the technology is designed to imitate human performance to communicate a particular message to consumers.⁹

The Federal Trade Commission has long required advertising claims to be truthful and not deceptive or unfair.¹⁰ However, synthetic performers present additional challenges because they can create realistic representations that consumers perceive as authentic. When an advertisement features an AI-generated person, consumers may attribute credibility or authenticity to a performance that does not originate from an actual human performer.¹¹ Disclosure requirements help address this problem by informing consumers when an advertisement features a synthetic performer. Consumer autonomy depends on the ability to make informed and voluntary purchasing decisions based on accurate and transparent information.¹² By requiring businesses to disclose synthetic performers, New York's law seeks to reduce the risk that consumers will be misled by artificially generated representations that appear authentic.

The Limitations of Disclosure Laws

Despite these benefits, New York's statute is not without its limitations. First, the law excludes audio-only advertisements from its disclosure requirement. This exclusion may leave consumers unaware of synthetic voices that resemble real individuals or create the impression of an authentic endorsement.¹³ Second, the law places disclosure obligations primarily on advertisers rather than on intermediaries that disseminate advertisements featuring synthetic performers. As

⁵ N.Y. GEN. BUS. LAW § 396-b(3) (McKinney 2026).

⁶ *Id.*

⁷ *Id.* § 396-b(1)(c).

⁸ *Id.* § 396-b(3).

⁹ Sarah Thomas, *AI and Actors: Ethical Challenges, Cultural Narratives and Industry Pathways in Synthetic Media Performance*, 2 EMERG. MEDIA 523 (2024) <https://journals.sagepub.com/doi/full/10.1177/27523543241289108>.

¹⁰ See 15 U.S.C. § 45(a)(1).

¹¹ Jared Schroeder & Heesoo Jang, *A Synthetic Marketplace: Rethinking First Amendment Theory in the Age of AI-Generated Video*, 10 BUS. ENTREPRENEURSHIP & TAX L. REV. 30, 70 (2026).

¹² Abdulrahman Akinyemi, *Artificial Intelligence in Marketing and Consumer Protection: Regulating Synthetic Deception in the Digital Marketplace* 8 (2026), <https://doi.org/10.2139/ssrn.6407398>.

¹³ *Id.* at 20.

a result, the statute does not impose liability on media outlets or advertising intermediaries that may use synthetic performers in their advertisements such as newspapers, magazines, television networks, streaming services, cable systems, billboard operators, or transit advertisers.¹⁴ These limitations raise questions as to whether the law adequately addresses the different ways synthetic materials can appear in commercial advertising.

Overall, disclosure alone does not eliminate every concern associated with synthetic representations in advertisements. Although identifying a synthetic performer can help consumers understand what they are viewing, the broader challenge remains ensuring that AI-generated advertising does not mislead consumers about the products or services being promoted.

What Comes Next?

New York's law reflects concerns that synthetic performers can undermine consumers' ability to distinguish fact from fiction and states taking action to regulate AI-use that is affecting consumers.¹⁵ California has already followed New York's lead. In September 2026, Governor Gavin Newsom signed Senate Bill 1050, requiring explicit disclosures in not only video, but also audio advertisements that use AI-generated performers to sell products or services.¹⁶ When an advertisement is found to violate this law it can no longer be used.¹⁷ These developments demonstrate the growing attention lawmakers are giving to transparency in AI-generated advertising.

These new regulations and Amazon's corresponding policy change should be viewed as part of a broader movement toward distinguishing between harmless AI assistance and AI-generated content that meaningfully changes commercial representation.

Existing consumer protection frameworks often address deception after consumers have already experienced harm. In rapidly evolving digital markets, these reactive mechanisms may be insufficient to address misleading representations before they reach consumers.¹⁸ An effective approach should therefore combine proactive transparency requirements with reactive enforcement.¹⁹ Disclosure obligations and platform design requirements can reduce the likelihood that consumer confusion can occur in the first place.²⁰ These disclosure requirements should be combined with reactive enforcement mechanisms, such as penalties in the New York law, to hold violators accountable. Together, these regulations may help deter future misrepresentation and deception. However, additional mechanisms, including regulatory investigations and civil remedies for affected consumers, could further strengthen these protections.

¹⁴ *Id.*

¹⁵ N.Y. Governor's Press Office, *supra* note 1.

¹⁶ Governor Gavin Newsom, *Governor Newsom signs new law to protect workers, require disclosures on AI-generated advertising* (Sept. 16, 2026), <https://www.gov.ca.gov/2026/09/16/governor-newsom-signs-new-law-to-protect-workers-require-disclosures-on-ai-generated-advertising/>.

¹⁷ *Id.*

¹⁸ *Id.* at 32.

¹⁹ *Id.*

²⁰ *Id.*