



AI-POWERED VIRTUAL FASHION INFLUENCERS: LEGAL AND ETHICAL IMPLICATIONS IN THE ERA OF DIGITAL MARKETING

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Table of Contents

- 1.ABSTRACT
- 2.INTRODUCTION
- 3.AI-POWERED VIRTUAL FASHION INFLUENCERS: GENESIS AND DEVELOPMENT
- 4.ETHICAL AND LEGAL FRAMEWORK FOR AI-POWERED VIRTUAL FASHION INFLUENCERS
- 5.CONCLUSION

ABSTRACT

The emergence of AI-powered virtual fashion influencers has revolutionized the landscape of digital marketing in the fashion industry. These virtual influencers, driven by artificial intelligence algorithms, have gained significant traction on social media platforms, attracting millions of followers and collaborations with major fashion brands. However, this phenomenon raises several legal and ethical questions regarding intellectual property rights, advertising disclosure, and consumer manipulation.

This research paper explores the legal and ethical dimensions of AI-powered virtual fashion influencers in the contemporary landscape of digital marketing. The paper is structured to comprehensively analyse the implications of these AI-generated entities on intellectual property, data privacy, transparency, and the broader ethical considerations surrounding their integration into the fashion industry. As virtual influencers gain prominence on social media platforms, understanding the legal frameworks governing their creation and operation becomes imperative^[1].

The rationale behind this study lies in the increasing ubiquity of AI-driven virtual personalities in shaping consumer perceptions and preferences in the fashion domain. By investigating the intellectual property rights associated with these virtual influencers, the paper aims to unravel the intricate legal challenges and opportunities.

[2] Furthermore, an exploration of data privacy issues arising from the collection and utilization of user data by AI-generated entities adds depth to the analysis^[3]. The scope of this paper extends to the examination of transparency in digital marketing campaigns involving virtual fashion influencers. It addresses the ethical considerations tied to user awareness of AI involvement in content creation, ensuring an ethically sound integration of these influencers into the industry.^[4] The paper concludes by proposing recommendations for regulatory frameworks to address the emerging legal and ethical complexities in this innovative intersection of AI and fashion marketing^[5].

Keywords: AI-powered influencers, virtual fashion, intellectual property, data privacy, digital marketing ethics.

INTRODUCTION

In the ever-evolving landscape of the fashion industry, the infusion of artificial intelligence (AI) has sparked a transformative shift, notably exemplified by the rise of AI-powered virtual fashion influencers. These digital entities, generated by advanced algorithms, are increasingly shaping consumer behaviours and preferences within the realms of digital marketing.^[6] As this phenomenon gains momentum, it becomes imperative to scrutinize the legal and ethical implications inherent in the creation and utilization of these virtual personas.

This research embarks on a comprehensive exploration of the multifaceted dimensions surrounding AI-powered virtual fashion influencers, focusing on the intricate interplay between technology, law, and ethics^[7]. The integration of AI in the fashion sector prompts a critical examination of intellectual property rights, with questions arising about the ownership and protection of content generated by these virtual influencers^[8]. Understanding these legal intricacies is pivotal in navigating the dynamic landscape of AI-driven content creation.

Moreover, the research delves into the realm of data privacy, investigating the ethical considerations tied to the collection and utilization of user data by AI-generated entities.^[9] The implications of these practices on user privacy, consent, and the potential risks associated with data handling warrant a nuanced exploration to establish a framework that safeguards user interests.

As the digital marketing sphere undergoes a paradigm shift with the proliferation of virtual influencers, the paper also addresses transparency issues. Consumer awareness of AI involvement in content creation is crucial for maintaining ethical standards in digital marketing campaigns^[10]. This study aims to unravel the extent to which users are informed about the AI genesis of virtual fashion influencers and proposes measures to ensure transparency in this dynamic and innovative intersection of AI and fashion marketing.

In sum, this research endeavours to illuminate the legal and ethical terrain underpinning AI-powered virtual fashion influencers, offering insights into the challenges and opportunities presented by these digital entities in the contemporary fashion ecosystem. Through a structured analysis, the study seeks to contribute to the

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ongoing discourse on the responsible integration of AI in the fashion industry^[11].

AI-POWERED VIRTUAL FASHION INFLUENCERS: GENESIS AND DEVELOPMENT

The fusion of artificial intelligence (AI) and virtual influencers has revolutionized the fashion industry, giving rise to AI-powered virtual fashion influencers. These digital avatars, driven by sophisticated algorithms, have become a powerful force in the world of fashion marketing, influencing trends, engaging audiences, and collaborating with major brands. This article explores the genesis and development of AI-powered virtual fashion influencers, tracing their evolution from concept to reality and examining the impact they have had on the fashion industry.^[12]

AI-powered virtual fashion influencers have emerged as a powerful and influential force in the fashion industry, reshaping the way brands connect with consumers and influencing trends and perceptions. Their evolution from concept to reality highlights the rapid pace of technological advancement and the creative innovation driving the fashion industry forward. As virtual influencers continue to evolve and expand their reach, it will be fascinating to see how they continue to influence and shape the future of fashion marketing.

Genesis of AI-Powered Virtual Fashion Influencers^[13]

The concept of virtual influencers can be traced back to the early 2000s, with the emergence of computer-generated characters in video games and movies. These virtual characters were created using advanced graphics technology and were often used to promote products and brands within their respective virtual worlds.

The idea of using virtual characters as influencers took off with the rise of social media platforms such as Instagram and Facebook. Brands began to experiment with creating virtual influencers to promote their products, leveraging the reach and engagement of these platforms to connect with audiences in new and innovative ways.

The development of AI technology further fueled the growth of virtual influencers, enabling more sophisticated and realistic interactions.^[14] AI algorithms were used to create virtual influencers with unique personalities, styles, and voices, making them indistinguishable from human influencers in many cases.

Development of AI-Powered Virtual Fashion Influencers

The development of AI-powered virtual fashion influencers can be divided into several key stages, each marked by technological advancements and creative innovation:

Creation of Virtual Characters: The first step in creating AI-powered virtual fashion influencers is the development of virtual characters with unique identities and styles. This involves designing the appearance, personality, and backstory of the virtual influencer to make them relatable and engaging to their audience.

Integration of AI Technology: Once the virtual character is created, AI technology is used to bring them to life. AI algorithms are used to generate content, engage with followers, and respond to comments and messages, giving the virtual influencer a sense of authenticity and personality.

Collaboration with Brands: As virtual influencers gain popularity, brands begin to take notice and seek collaborations. Virtual influencers can promote products, participate in marketing campaigns, and even attend events on behalf of brands, providing a unique and engaging way to connect with consumers.

Expansion into Other Platforms: Initially, virtual influencers were limited to social media platforms like Instagram and Facebook. However, as their popularity grew, they began to expand into other platforms such as YouTube, TikTok, and even virtual reality (VR) experiences, further increasing their reach and influence.

Impact of AI-Powered Virtual Fashion Influencers^[15]

The rise of AI-powered virtual fashion influencers has had a profound impact on the fashion industry, influencing trends, shaping consumer behavior, and redefining the concept of brand ambassadorship. Some of the key impacts include:

Engagement and Reach: Virtual influencers have proven to be highly engaging, with some virtual influencers boasting millions of followers and high levels of engagement. This has made them a valuable marketing tool for brands looking to reach a large and diverse audience^[16].

Authenticity and Creativity: Virtual influencers offer a level of authenticity and creativity that is difficult to achieve with human influencers. Their digital nature allows them to push the boundaries of fashion and creativity, inspiring audiences with their unique style and perspective.

Brand Collaboration: Virtual influencers have become sought-after collaborators for brands, with many high-profile partnerships and campaigns. Brands see virtual influencers as a way to connect with younger, tech-savvy consumers who are looking for more than just traditional advertising.^[17]

Redefining Beauty Standards: Virtual influencers have also played a role in redefining beauty standards in the fashion industry. By presenting a more diverse range of body types, skin colors, and styles, virtual influencers have challenged traditional notions of beauty and encouraged acceptance and inclusivity.

AI-POWERED VIRTUAL FASHION INFLUENCERS: LEGAL AND ETHICAL IMPLICATIONS

The exploration of AI-powered virtual fashion influencers and their legal and ethical implications yields a nuanced discussion that navigates through intellectual property, data privacy, and transparency concerns within the evolving landscape of digital marketing.

Intellectual Property Rights

One of the primary legal issues surrounding AI-powered virtual influencers is the question of intellectual property rights. Unlike human influencers who create and own their content, virtual influencers are created and controlled by algorithms, raising questions about who owns the rights to their content.

In traditional influencer marketing, brands collaborate with human influencers to create sponsored content. In these cases, the influencer typically owns the rights to the content they create, and brands license the content for use in their marketing

campaigns. However, in the case of virtual influencers, the lines are more blurred. Since the content is created by algorithms, it is unclear who owns the rights to the content. As these virtual influencers become central to marketing campaigns, questions arise regarding the ownership of their digital personas and the protection mechanisms available. Insights into existing legal frameworks and potential modifications are crucial to fostering innovation while ensuring fair and ethical practices in content creation.^[18]

In India, the Copyright Act, 1957^[19], governs intellectual property rights, including rights related to digital content. The Act provides protection to original literary, artistic, musical, and dramatic works, but it does not specifically address virtual influencers or AI-generated content. To address these issues, stakeholders should ensure clear agreements regarding ownership and use of content created by virtual influencers. Additionally, they should consider the implications of copyright laws on the creation and distribution of AI-generated content in India.

Data Privacy and Security

The study unveils the ethical considerations embedded in the collection and utilization of user data by AI-driven virtual fashion influencers^[20]. The discussion delves into the intricacies of data privacy, exploring how the fashion industry can strike a balance between leveraging user data for personalized experiences and respecting user privacy rights. Recommendations for transparent data practices and enhanced user consent mechanisms are essential components of this dialogue^[21]. In India, data privacy laws play a crucial role in regulating the use of AI-driven influencers, as they govern the collection, processing, and sharing of personal data. The primary legislation that addresses data privacy in India is the Personal Data Protection Act 2023. Additionally, the Information Technology Act, 2000, and the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011, also provide some regulations regarding data protection.

Ø The Personal Data Protection Act 2023 and Artificial Intelligence.

The DPDP act 2023 does not specifically address Artificial Intelligence, however the underlying principle and preamble of the Act aim to acknowledge rights of individual and safeguarding the personal data. Artificial intelligence and machine learning models rely heavily on gathering extensive data. Specifically, training AI systems is entirely reliant on data collection, and the presence of a large dataset is crucial in determining the success or failure of a machine learning algorithm. However, the Act mandate that the data collected will be processed only for lawful purposes. However, Generative Ai and Deepfakes are reality in the realm of Artificial Intelligence and the DPDP act does not appear to fully address the issue of fake generative AI-based media. Section 3(c) of the Act is particularly relevant in this context as it outlines the conditions under which the Act would not apply. The first clause states that the Act does not apply when data is processed by an individual for any personal or domestic purpose. However, the term "personal or domestic" purpose is not clearly defined in the Act. This raises questions about whether an individual could be considered a Data

Fiduciary under the Act if they acquire another person's personal data illegitimately. Even if the answer is yes, AI-generated fake media intended for household use could easily spread beyond control. In the era of social media, a deepfake could circulate within an expanding social circle, making it nearly impossible for the creator to track where their deepfake ends up once it is shared with someone in their household or social circle.

Transparency in Digital Marketing

Another important legal and ethical issue surrounding AI-powered virtual influencers is advertising disclosure. In many jurisdictions, there are laws and regulations that require influencers to disclose when they are being paid or sponsored to promote a product. These laws are designed to protect consumers from being misled by advertising disguised as authentic content. However, the use of virtual influencers complicates this issue. Since virtual influencers are not real people, they cannot disclose that they are being paid or sponsored. This raises questions about how to ensure transparency and compliance with advertising laws.

The discourse extends to the transparency in digital marketing campaigns, emphasizing the ethical imperative of ensuring user awareness.^[22] By scrutinizing the extent to which consumers are informed about the AI genesis of virtual influencers, the discussion highlights the necessity for clear and transparent communication. Industry-wide guidelines and regulations are proposed to empower users with the information needed to make informed choices and to establish a foundation of trust in AI-driven marketing strategies^[23].

Impact on Human Influencers

The potential impact of AI-generated influencers on human counterparts is another ethical concern. While AI introduces innovative approaches to content creation, there is a need to consider the collaborative potential between human and virtual influencers^[24]. Ethical considerations extend to the fair representation of both parties, fostering an ecosystem where human and AI influencers can coexist and contribute synergistically.

Consumer Manipulation

AI-powered virtual influencers are designed to be aspirational and relatable, which can create unrealistic expectations among consumers. In India, where social media influencers hold significant sway over consumer choices, there is a risk of virtual influencers contributing to feelings of inadequacy and low self-esteem, especially among impressionable audiences.

To address this, brands and creators should ensure that the content created by virtual influencers is responsible and promotes positive values. Additionally, they should be transparent about how virtual influencers are created and the limitations of their capabilities.

Regulatory Frameworks

The discussion culminates in considerations for regulatory frameworks that accommodate the dynamic nature of AI in the fashion industry^[25].

Recommendations are made for adaptive regulations that balance innovation with ethical considerations. The dialogue underscores the importance of collaboration between industry stakeholders, policymakers, and technologists to establish guidelines that foster responsible AI integration.

In conclusion, the discussion encapsulates the complexity of AI-powered virtual fashion influencers in the context of legal and ethical considerations. By addressing these multifaceted aspects, the paper aims to stimulate further discourse and contribute to the development of a robust framework that aligns technological advancements with ethical standards in the ever-evolving fashion industry.

ETHICAL AND LEGAL FRAMEWORK FOR AI-POWERED VIRTUAL FASHION INFLUENCERS

In the era of digital marketing, the use of AI-powered virtual fashion influencers presents unique ethical challenges. These virtual influencers, created and controlled by algorithms, have the potential to impact consumer behaviour, shape societal norms, and influence cultural perceptions. To ensure that the use of AI-powered virtual fashion influencers is ethical and responsible, a comprehensive ethical framework is essential. This framework should address key ethical considerations such as transparency, authenticity, privacy, fairness, and accountability.

Transparency

Transparency is a fundamental ethical principle that should guide the use of AI-powered virtual fashion influencers.^[26] Brands and creators should be transparent about the use of AI technology in creating and managing virtual influencers. This includes disclosing that the influencer is not a real person but a digital creation. Transparency also extends to the disclosure of sponsored content and advertising partnerships. Brands should clearly indicate when a virtual influencer is promoting a product or service in exchange for compensation. Transparency also extends to advertising disclosure. Brands should ensure that sponsored content created by virtual influencers is clearly identified as such, following relevant advertising standards and guidelines. This transparency is essential to maintain trust with consumers and avoid misleading or deceptive practices.

From a legal perspective, transparency requirements can be enforced through regulations and guidelines issued by regulatory bodies. For example, in India, the Advertising Standards Council of India (ASCI) regulates advertising practices and requires influencers to disclose paid partnerships or endorsements. Similar regulatory frameworks can be implemented to ensure transparency in the use of AI-powered virtual fashion influencers.

Authenticity

Authenticity is another key ethical consideration when using AI-powered virtual fashion influencers. While virtual influencers are not real people, they should still embody authentic values and beliefs^[27]. Brands and creators should ensure that virtual influencers' personalities and behaviors are consistent and genuine, avoiding the use of misleading or deceptive content. Virtual influencers should also be used to promote products and services that align with their values and are relevant to their

audience.

Privacy

Privacy is a critical ethical issue in the use of AI-powered virtual fashion influencers. These influencers often rely on personal data, such as user preferences and behaviors, to personalize content and engage with audiences. Brands and creators should prioritize the protection of personal data and comply with relevant data protection laws and regulations. They should also obtain explicit consent from individuals before using their personal data for marketing or advertising purposes.^[28]

Fairness

Fairness is an essential ethical principle that should guide the use of AI-powered virtual fashion influencers. Brands and creators should ensure that virtual influencers do not perpetuate stereotypes or promote discriminatory behavior. Virtual influencers should represent a diverse range of backgrounds, cultures, and identities, and their content should be inclusive and respectful of all individuals.

Accountability

Accountability is a crucial ethical principle that should be upheld in the use of AI-powered virtual fashion influencers^[29]. Brands and creators should take responsibility for the actions and behaviours of virtual influencers, ensuring that they comply with ethical standards and legal requirements. They should also be transparent about their decision-making processes and be willing to address any concerns or complaints raised by consumers or stakeholders^[30].

Brands and creators should establish clear policies and procedures for the creation and management of virtual influencers, ensuring that they comply with relevant laws and regulations. This includes ensuring that virtual influencers do not infringe on intellectual property rights or engage in deceptive advertising practices. Regulatory bodies can also play a role in enforcing accountability by imposing sanctions or penalties for non-compliance. By holding stakeholders accountable for their actions, the framework can help ensure responsible and ethical use of AI-powered virtual fashion influencers.

CONCLUSION

In examining the legal and ethical implications of AI-powered virtual fashion influencers in the realm of digital marketing, the legal analysis underscored the need for an adaptive legal framework that grapples with the novel challenges posed by AI-generated content. Intellectual property rights, data privacy, and transparency emerged as key focal points, emphasizing the necessity for nuanced regulations that balance innovation with user protection.

Ethically, the study proposed a framework for the responsible integration of AI in the fashion industry, particularly in the context of virtual influencers. Transparency, fairness, and privacy emerged as central tenets, reinforcing the importance of ethical considerations in technological applications that directly influence consumer choices and brand perceptions.

The analysis of the regulatory landscape highlighted both advancements and gaps in governing AI in the fashion industry. The need for proactive regulations that keep pace with technological evolution became evident, with recommendations for regulatory bodies to collaborate with industry experts and stakeholders in shaping effective policies.

In conclusion, the legal and ethical dimensions of AI-powered virtual fashion influencers present a complex yet intriguing terrain. As the industry continues to embrace technological innovations, a collaborative effort involving policymakers, industry players, and consumers is imperative. The use of AI-powered virtual fashion influencers has the potential to revolutionize digital marketing, but it also raises important ethical and legal considerations. By establishing a robust ethical and legal framework that emphasizes transparency, accountability, fairness, and data privacy, stakeholders can ensure that AI-powered virtual fashion influencers are used responsibly and ethically. This framework should be guided by principles that prioritize the interests of consumers and society, ultimately contributing to a more ethical and sustainable digital marketing ecosystem.

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