June 2023

International Survey on AI generated images and disclosure (internal report)

The Advertising Standards Authority of Singapore (ASAS) is currently consulting on this issue:

In May 2023, a user of the GrabFood food delivery platform wrote on the Singapore / sub-Reddit that the app appeared to use AI-generated images for the menu items of an unnamed restaurant. This story was subsequently picked up by local news outlets.

In the screenshots the user shared, certain dishes appeared strange, e.g. truffle fries were depicted with a whole truffle on French fries, and salmon ikura don (Japanese-style salmon and roe on rice) was depicted with salmon roe the size of chicken egg yolks. All the images bore a watermark stating *"Image generated by Grab. Actual product might differ."*

Commenters on the thread felt the images could be misleading regarding the appearance and portion size, and users could miss the disclaimer. Grab confirmed to the news media it was conducting a trial to study if AI-generated photos could be a feasible solution for merchant-partners who do not have the resources to take photos for their menus, given users' feedback that they preferred illustrative photos to text-only listings. Grab claimed to check that the AI-generated images matched the dishes (in terms of cuisine, category, item name and description), select the most accurate and visually appealing ones, and were constantly tracking feedback and reviewing and updating photos.

We surveyed our members to find out their views and insights.

Questions:

1. **Does your organisation have guidelines pertaining to the use of AI-generated images in advertisements in online and physical media, and what are they?**
2. **If yes, is the placement of a disclaimer like "Image generated by [name of advertiser]. Actual product might differ." on top of the AI-generated image sufficient to meet your guidelines? If not, what would your recommendation be?**
3. **Do you have other comments on the use of AI to generate images or content in advertisements (e.g. any uptick in complains/queries, or pushback from industry players to restrict its use)?**
4. **If you don't have rules/guidelines are you planning to develop some?**

ICAS and EASA received a total of 14 answers from SROs from across the world.

Country	SRO	Response
Australia	Ad Standards	**1. Does your organisation have guidelines pertaining to the use of AI-generated images in advertisements in online and physical media, and what are they?** Ad Standards Australia does not have specific guidelines for AI-generated images in ads. If the AI image fell under one of the advertising codes that covers misleading advertising (e.g. a food or beverage product) and the complaint raised an issue, it would be investigated. Misleading advertising is currently only covered by the AANA Food and Beverages Code, the AANA Children's Code and the AANA Environmental Claims Code. These sections are very general and do not specifically mention AI. **2. If yes, is the placement of a disclaimer like "Image generated by [name of advertiser]. Actual product might differ." on top of the AI-generated image sufficient to meet your guidelines? If not, what would your recommendation be?** We do not have any cases about AI images being misleading, however if we were to get a complaint and raise a case, we would look at it in a similar manner to Case 0099-22 where a consumer complained about the chicken in a McDonalds ad not looking like the chicken served in real life. The Community Panel found that a certain amount of puffery or exaggeration in such images does not necessarily mean that the advertisement is misleading or deceptive and the complaint was dismissed. There is an expectation that there is a certain amount of puffery when advertising food without the use of a disclaimer in Australia, in your case it may be enough to have a disclaimer, however we will need to wait and see how AI images are used, and the issues they raise, to understand how they fit with our codes and our Community Panel's view. **3. Do you have other comments on the use of AI to generate images or content in advertisements (e.g. any uptick in complaints/queries, or pushback from industry players to restrict its use)?** At this stage we have not received any complaints about AI generated images, or content in advertisements.

		4. If you don't have rules/guidelines are you planning to develop some? Our current rules cover some of the issues that we think may arise by the use of AI (e.g. misleading content, body image) however we will continue to watch this space. The Australian Government has recently launched a government consultation on AI, although not directly about advertising it may provide some interesting info to other SROs. https://consult.industry.gov.au/supporting-responsible-ai
Cyprus	CARO	**1. Does your organisation have guidelines pertaining to the use of AI-generated images in advertisements in online and physical media, and what are they?** No. **2. If yes, is the placement of a disclaimer like "Image generated by [name of advertiser]. Actual product might differ." on top of the AI-generated image sufficient to meet your guidelines? If not, what would your recommendation be?** Not sure if the disclaimer "Image generated by [name of advertiser]. Actual product might differ'' is or should be considered adequate and or acceptable. From a consumer perspective, it is doubtful that their disappointment would be mitigated if the dish ordered differed significantly to the picture in the menu, although a Jury reviewing the case might consider them warned. Moreover, the disclaimer does not specifically mention that this is an AI-generated image. CARO believe it should. Another parameter, a jury might consider the disclaimer acceptable in this situation where there are two actors: the food delivery platform and a restaurant on the platform. However, a jury might feel differently if the disclaimer was used by the restaurant itself, which would know that the image is not a true depiction of their dish (especially if they felt that there was intention to mislead on behalf of the restaurant). **3. Do you have other comments on the use of AI to generate images or content in advertisements (e.g. any uptick in complains/queries, or pushback from industry players to restrict its use)?**

		Not at present.
		4. If you don't have rules/guidelines, are you planning to develop some?
		Don't know.
France	ARPP	**1. Does your organisation have guidelines pertaining to the use of AI-generated images in advertisements in online and physical media, and what are they?**
		No, ARPP does not have guidelines. If the issue came up, ARPP would apply the general rules that they have concerning truthfulness and loyalty and make sure the ad is not misleading for the consumer.
		2. If yes, is the placement of a disclaimer like "Image generated by [name of advertiser]. Actual product might differ." on top of the AI-generated image sufficient to meet your guidelines? If not, what would your recommendation be?
		Usually, ARPP consider a disclaimer is not enough to counterbalance a visual, especially if the visual is very different from the reality. It would depend how much the image has different features from the real product.
Finland	MEN	MEN has no guidelines pertaining to the use of AI generated images.
Germany	ZAW	**1. Does your organisation have guidelines pertaining to the use of AI-generated images in advertisements in online and physical media, and what are they?**
		ZAW do not have specific rules in regard of AI-generated images. Their Codes of Conduct are applicable to AI-generated images as much as it is to in another way created images.
		2. Do you have other comments on the use of AI to generate images or content in advertisements (e.g. any uptick in complains/queries, or pushback from industry players to restrict its use)?
		ZAW did not receive any complaint or similar regarding images created with AI.
		3. If you don't have rules/guidelines, are you planning to develop some?
		ZAW do not plan to develop rules at the moment.

India	ASCI	**1. Does your organisation have guidelines pertaining to the use of AI-generated images in advertisements in online and physical media, and what are they?** ASCI does not have any specific guideline for AI-generated images in advertisements in online or physical media. However, our chapter on Truthful and Honest advertising includes clauses that 'no ad should mislead the consumer either by exaggeration, omission, ambiguity or implication'. It also includes that 'ads should not abuse the trust of consumers or exploit their lack of experience or knowledge. Instances where such ads are found to be misleading to consumers would be a violation of ASCI code Chapter I. **2. If yes, is the placement of a disclaimer like "Image generated by [name of advertiser]. Actual product might differ." on top of the AI-generated image sufficient to meet your guidelines? If not, what would your recommendation be?** If the images are accurate or near accurate to the actual product then a disclaimer to state "Image generated by X, actual product may differ" placed close to the image would work. However, if there is minimal or zero resemblance to the actual product then in spite of a disclaimer, the ad would be misleading. **3. Do you have other comments on the use of AI to generate images or content in advertisements (e.g. any uptick in complains/queries, or pushback from industry players to restrict its use)?** ASCI has experienced a few challenges with google generated banner ads, where advertisers have come back with a response that the ads (images/claims) were not theirs, rather something that has been auto generated. Compliance becomes a key challenge in these cases. **4. If you don't have rules/guidelines are you planning to develop some?** No. At present, the ASCI code on misleading ads covers the kind of issues we see. If we see new issues cropping up which are not covered by the existing code, we would then consider it.
Luxembourg	CLEP	CLEP has no guidelines pertaining to the use of AI generated images.
Netherlands	SRC	**1. Does your organisation have guidelines pertaining to the use of AI-generated images in advertisements in online and physical media, and what are they?** No, we don't. In the Advertising Code for Cosmetic Products that was last update in January 2023, the following paragraph was included in the article with general requirements for cosmetic product claims: *Paragraph 10. New techniques, such as artificial intelligence, may not be used misleadingly when they are used to support claims.* We don't have any cases yet where this paragraph was applied.

2. **If yes, is the placement of a disclaimer like "Image generated by [name of advertiser]. Actual product might differ." on top of the AI-generated image sufficient to meet your guidelines? If not, what would your recommendation be?**

It depends of the situation. In case [2022/00359](#) we had a complaint from the Dutch Consumers Association about a package of "Nissin Soba Wok Style Teriyaki" from Nissin Foods. On the front of the package was an image of a plate with noodles with green and orange/red vegetables and mushroom slices. At the bottom right of the image was the word "<u>serving suggestion</u>" in five languages, including Dutch. The complaint essentially concerned the question whether (the label on) the packaging of the product in question gave the average consumer the impression that this product contains (among other things) carrot and mushroom as ingredients. The Board of Appeal judged that the image was misleading because, viewed as a whole, the packaging (despite the mention of 'serving suggestion') gives the impression that the product also contains carrots and mushrooms, while in reality it does not contain these ingredients , which is evident only from the list of ingredients.

Another case about a misleading image was case [2020/00425](#). This was about an ad with the image of a helmet with a <u>dark</u> visor. At the bottom of the ad is the following statement: "Note: This helmet comes with a <u>clear</u> visor." The jury found that the use of images of products that do not or do not fully correspond to the specific characteristics of the products in question, without making this immediately clear with the image, may confuse the consumer about what he will receive with the order. The sentence lower in the ad "Note: This helmet is supplied with a clear visor" does not sufficiently remove this confusion. The average consumer will not be aware that this place in the advertisement states that the product that he or she will receive looks different than on the image. Therefore the ad was considered misleading. As it was determined 'ex officio that ad has been changed during the procedure, in the sense that it is now stated in an eye-catching manner directly below the image that the helmet is supplied with a clear visor, a recommendation to adjust the ad was omitted.

3. **Do you have other comments on the use of AI to generate images or content in advertisements (e.g. any uptick in complains/queries, or pushback from industry players to restrict its use)?**

No.

4. **If you don't have rules/guidelines, are you planning to develop some?**

No.

Romania	RAC	RAC has no guidelines pertaining to the use of AI generated images, but it could be an option for the future.

Spain	AUTOCONTROL	AUTOCONTROL has no guidelines pertaining to the use of AI generated images.
Sweden	Ro.	Ro. apply strictly the ICC code which is currently revised and will most certainly touch upon AI in the new version predicted to be released in early 2024. Until then, Ro. apply the ICC code also on AI generated content and images.
Switzerland	SLK	SLK has no guidelines pertaining to the use of AI generated images,
UK	ASA	1. **Does your organisation have guidelines pertaining to the use of AI-generated images in advertisements in online and physical media, and what are they?** ASA do not have specific rules or guidelines, but all their usual guidelines apply for example our rules around misleading ads. 2. **If yes, is the placement of a disclaimer like "Image generated by [name of advertiser]. Actual product might differ." on top of the AI-generated image sufficient to meet your guidelines? If not, what would your recommendation be?** Disclaimers are unlikely in most contexts to be sufficient to rebut an otherwise misleading impression – such disclaimers tend to misleadingly contradict rather than clarify, which goes against our rules. 3. **If you don't have rules/guidelines, are you planning to develop some?** ASA is planning on producing a general advice article on this topic in the coming months, but they are yet to see evidence of a need for specific rules or guidance in this area.
USA	BBB National Programs	BBB National Programs does not dhave guidelines on the use of AI-generated images in advertising but would likely take the approach that such images are fine in the abstract, with the issue being whether the images are materially misleading (similar to the use of Photoshop or other image editing). We can see the benefit of a disclosure to alert consumers that the images may not accurately reflect the actual product. However, we would be concerned that the phrase "Image generated by Grab [or other brand name] …" might not be adequate to inform consumers that AI was used. It could be interpreted simply as indicating that the brand took the picture or created the ad. Saying "Image generated by artificial intelligence …." would be better. We don't currently plan to issue guidance in this area.