

Practice Update

How New York's New AI Laws May Reshape Brand and Franchise Compliance

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New York looks to be one of the first states to adopt laws to regulate artificial intelligence (AI) use in advertising and to strengthen post-mortem publicity rights regarding AI-generated replicas and “synthetic performers.” Given the state’s role as a bellwether for consumer-protection and advertising regulation, for franchisors and franchisees operating in or marketing to New York consumers, these new laws, combined with the state’s broader AI legislative framework, represent a shift toward transparency, consent, and accountability. Franchise systems that rely on centralized marketing, automated pricing, or AI-powered hiring tools may need to act now to adapt their agreements, disclosures, and operations to comply with New York’s new and pending AI requirements.

The New AI Legal Landscape in New York. Governor Kathy Hochul has signed a series of AI-related measures which include: (1) the AI Transparency in Advertising Act (S.8420-A/A.8887-B), effective June 9, 2026, which requires advertisers to disclose AI-generated “synthetic performers” appearing in ads distributed in New York; and (2) the Posthumous Right of Publicity Expansion Act (S.8391/A.8882),

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effective December 11, 2025, which mandates consent from heirs or executors before using a deceased individual's name, image, or AI-generated likeness for commercial purposes. Alongside these targeted measures, New York also has created an AI oversight office to establish transparency standards for "frontier" models and to study AI's social and labor impacts. Together, these developments signal that AI in commerce and advertising will be treated not merely as a technology question but as an issue of consumer protection and rights — categories that have long shaped franchise regulation.

In the AI Transparency in Advertising Act, a "synthetic performer" is any humanlike figure generated or substantially altered by AI software to appear as a person performing in a commercial advertisement. If that advertisement is distributed in New York, both the brand and its production partners must make a "*conspicuous disclosure*" that AI-generated performers were used. The broad reach of this law applies to any commercial advertising "produced or created" for distribution in New York, covering brands, agencies, franchises, and local production partners. It even extends to influencer marketing campaigns and regional franchisee content — though there are exclusions for audio-only content, AI used solely for translation, and marketing for expressive works (like films or shows) where the synthetic performer regularly appears in the underlying work. Violations carry civil penalties of \$1,000 for a first offense and \$5,000 for each subsequent violation. Advertisers have until June 2026 to adapt.

The franchise ecosystem should brace for impact. Franchisors often produce national creative assets that franchisees localize for regional use, meaning national campaigns using AI-generated models or virtual "employees" to standardize brand visuals must now add a visible disclosure when distributed in New York or to New York consumers via digital targeting. Franchisees generating local social media and influencer campaigns to promote local stores

with AI-enhanced human visuals — avatars, stylized “staff” imagery, or deepfake testimonials — could fall under the law’s disclosure mandate. Franchisors with creative, advertising, and influencer contracts need to require agencies and vendors to flag synthetic-performer use, include indemnity for nondisclosure, and maintain material proof of disclosure compliance. Indeed, to be safe, franchise systems should consider adding a synthetic-performer review step to every ad-approval workflow. Failure to do so could create brand and joint liability exposure under state consumer protection laws.

New York’s Posthumous Right of Publicity Expansion Act expands posthumous publicity protections to cover AI-generated or otherwise digitally recreated likenesses of deceased individuals. It builds on the 2021 “digital replica” provisions in New York’s Right of Publicity law, and closes gaps exposed by advances in generative technology. There is now a consent requirement for prior authorization from the deceased person’s heir or executor for any commercial use of his or her image, voice, or likeness, including AI-based simulations. “Deceased personalities” and “deceased performers” are now defined as domiciled in New York at death and are explicitly protected. Without authorization, digital replicas may not be used in audiovisual works, sound recordings, or even live or digital performances. Enforcement now provides for statutory damages of \$2,000 or actual damages (including profits) and potential punitive damages, enforceable immediately.

The brand and franchise implications clearly fall directly on franchises that may use historical figures or celebrity imagery in advertising, design motifs, or immersive experiences. Franchisors leveraging old footage or AI “resurrections” of deceased endorsers must ensure that they have obtained explicit rights covering digital replicas, not just likeness or “all media” clauses. Licensing negotiations with estates now require detailed provisions covering AI

reproduction, de-aging, and derivative synthesis to avoid unforeseen breaches. Franchise disclosure documents and agreements should allocate responsibility for securing publicity rights to the franchisor if used in system advertising and restrict franchisees from creating local ads using any deceased personality likenesses without authorization. Indeed, these new laws would seem to call for *rights audits* to confirm compliance or the lack thereof, and to take steps to address the new regulatory requirements in New York if a franchise system is operating here.

New York's new AI requirements touch on classic franchise tensions: centralized control versus local execution, technological efficiency versus statutory disclosure, and brand uniformity versus state-by-state compliance. For New York practitioners and franchises, this is an opportunity to modernize franchise documentation and counseling; create AI-specific appendices, standard disclosure templates, and detailed allocation clauses; incorporate AI compliance into annual FDD updates and vendor management programs; and treat AI use in the franchise system as a regulated activity, not as a mere innovation. Ultimately, New York's new AI requirements underscore that automation and authenticity can coexist — but only if disclosure, consent, and human oversight keep pace with technology changes. For franchisors and franchisees alike, compliance is quickly becoming not just a legal obligation but an essential element of brand trust.

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