

Artificial Intelligence and Franchising

In this article, Marc Lieberstein and Jon Neiditz define AI, explore its potential franchise uses and look at some currently pending AI regulations that may impact franchising.

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Artificial intelligence (AI) and franchising are a natural combination. AI will most likely play a significant role in franchise growth, efficiency, advertising and promotion, data generation and collection, and profitability. But let's step back to define AI, explore its potential franchise uses and look at some currently pending AI regulations that may impact franchising.

Let's first define AI. There are different forms of AI, each with certain limitations that serve as differentiators on what AI can do. Enterprise AI is a machine learning application used for everyday business activities that can adapt, improve, and function autonomously, often by sorting, labeling, and making decisions based on input data. Generative AI is distinctive because it produces/creates new content, uses generally much vaster training data and advances in natural language processing to enable creative or other forms of expression. The net-net is that with generative AI you can plan out and do a lot of what you want to do in business by just having ordinary conversations. And for those in franchising, that is why, once you get comfortable with it, generative AI is going revolutionize the business of franchising.

AI may have many uses in franchising. For example, AI can likely assist with locating, evaluating and selecting prospective franchisees; develop more efficient integration for, and operation of, relevant franchise systems and

operations; collect, evaluate and manipulate customer data and behavior to increase sales; assist with franchisee employee evaluation, performance and hiring.

The International Franchise Association (IFA) just published a white paper titled “The Power of AI”. In it, IFA discusses the various AI uses for franchises in marketing and business transformation. The IFA white paper notes that “artificial intelligence is continuing to rapidly transform the digital marketing landscape, enabling businesses to gain deeper insights into their customers, optimize their ad campaigns, and personalize their marketing efforts. As the volume of digital data continues to increase exponentially, traditional marketing techniques are becoming less effective. That’s why AI has become an essential tool for marketers, allowing them to leverage machine learning algorithms and predictive analytics to better understand their audience and deliver more relevant and engaging experiences.”

The paper goes on to discuss the many ways “artificial intelligence is improving digital marketing performance: improved audience targeting, optimized ad campaigns, and enhanced customer insights.”

With such pervasive expected use of AI in franchising comes the risk of privacy and data breaches and misuse. Franchisors and franchisees should understand that they may need to insure against such risks and take all necessary steps to avoid them, or suffer the consequences of, and backlash from, consumers who will lose trust in the franchise brand from such breaches and misuse resulting from the use of AI.

Below we discuss some pending legislation being considered in Congress to regulate AI use and which those in franchising should be aware. In addition to the [Bipartisan Framework for U.S. AI Act](#), which published on Sept. 8,

2023, to provide a blueprint on the development of AI legislation in the United States, Congress has held recent meetings to discuss AI's use in connection with financial services; national security, cybersecurity and innovation and data collection.

Relevant to franchising are several pending bills in Congress such as:

- **Preventing Deep Fake Scams Act** addresses AI's threat to consumers and financial institutions from "deep fake" programs that allow bad actors to essentially steal audio, video and photos and use them to access bank accounts, credit card accounts and other private financial information.
- **Algorithmic Accountability Act of 2023** would mandate more transparency about how company uses AI, for what purposes and allow for consumer choice and consent when using such AI systems.
- **DEEPFAKES Accountability Act** focuses on the threat to national security from deep-fake technology enabled by AI and set up legal ramifications and recourse from harm from such technology and will mandate resource allowing for detection and mandating notice and labeling of deep fakes on online platforms.
- **Advisory for AI-Generated Content Act** would mandate a watermark be present on all AI generated content to make consumers aware that AI is being used.
- **Digital Consumer Protection Commission Act of 2023** would create a commission to monitor technology companies and regulate online platform to promote competition, protect privacy, consumers and national security.

- **Nurture Originals, Foster Art, and Keep Entertainment Safe Act of 2023** is consider how to protect voice, image likeness and their unauthorized use and recreation by AI technology; it may result in creating a federal right of publicity, which is currently only protected by state law.

The above bills pending in Congress provides franchises with insight on the kinds of regulation being considered to protect the marketplace and consumers. These bills also indicate that franchises may need to plan for the steps they will need to take to comply.

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