

# Advertising in the metaverse and the authenticity of immersive encounters

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The rapid evolution of social media has transformed the advertising industry, offering new channels for brands to market their goods and services to consumers, and increasing sophistication in segmenting target audiences. However, this has also generated new regulatory challenges and enforcement issues for the sector. One prominent example of this has been how brands and the influencers they employ disclose that their content is an advertisement.

As regulators grapple with these questions, they are set to become more complex with the growth in virtual reality (VR) and augmented reality (AR) (the so-called “metaverse”), which will prompt acute questions about commercial endorsements and the authenticity of online and immersive encounters. In the US, the Federal Trade Commission’s (FTC) modernization of its Endorsement Guides provides an opportunity to preempt emerging advertising regulatory questions in the metaverse.

There are two aspects to the FTC’s Endorsement Guidelines: first, advertisers should “clearly and conspicuously” disclose “material connections” between a brand and its endorsers, and second, advertisers and disclosures cannot make false or misleading statements. Notably, the Guides are only advisory, but the agency publishes them to inform relevant actors of what is expected to avoid an enforcement action under Section 5 of the FTC Act. Many brands and influencers have become accustomed to the disclosure obligations on social media platforms. On Instagram, for example, this can be as simple as an influencer writing “#Ad” or “#Sponsored” in the photo’s caption before a brief disclosure. On YouTube the disclosure can either be included in the video in the form of an audio statement or in the description. Disclosures will continue to be a defining requirement for influencers and celebrities who create content on behalf of brands on metaverse platforms. However, many questions remain concerning how disclosures will work in the metaverse, especially considering that some endorsers do not always meet ad disclosure requirements on current social media platforms.

If immersive worlds feel real to users, how might they be able to distinguish between what is genuinely their reality versus what has been injected into their surroundings and is a form of advertising? In Global Counsel’s [report](#) on regulating the metaverse, regulators and policymakers raised concerns about metaverse platforms introducing avatars that would seem to be having a genuine conversation about how they liked or used a certain product, but in actuality, the conversation is an advertisement. In this scenario, how, when, and where should the disclosure occur? This is a particularly salient issue for young children, who often struggle to differentiate between advertisements and content. The FTC’s challenge in making metaverse-proof guidance is that we do not precisely know how the technology, user behaviour, and industry trends will evolve.

As such, there is a premium on technology-neutral guidance which can apply to evolving technologies.

Moreover, the deployment of eye-tracking technologies in VR and AR hardware devices introduces significant scope for the mass collection of biometric data that can be used to infer information about a user and predict their reactions. In our report, regulators raised concerns that brands could leverage this sensitive data to meticulously curate promotional tactics (e.g., which avatars speak to a user and how an avatar promotes a product or service to a specific user), further making it challenging for consumers to identify advertisements.

The question of trust is not just a regulatory question but a commercial one too. If consumers are not able to easily distinguish between authentic experiences and targeted promotional content, they may lack trust in the metaverse and its enabling technologies (e.g., AR and VR). GC's report revealed that the public in the US, UK, and France already have low levels of trust in private companies involved in the metaverse - poor ad disclosure practices may further entrench this sentiment.

For industry, while the FTC's Endorsement Guides may at face value signal more regulation, they may have a less heralded upside. Having clear guardrails for disclosing ads and financial relationships could have the effect of helping to build trust in immersive technologies and systems.