

Does Artificial Intelligence Tell the Truth?

Being aware of the fact that technological developments have diversified the ways in which commercial advertisements are created and presented to consumers, the Advertisement Board ("Board") scrutinizes the advertising content created by artificial intelligence. In Turkey, there is no regulation that directly addresses advertisements created by using artificial intelligence. The Board reviews these advertisements in accordance with the general principles of truth and good faith, principles regulating comparative advertisements, and the advertiser's burden of proof.

The Board has recently imposed administrative sanctions for advertisements created by "ChatGPT". The advertisements which included expressions of superiority over competing products or companies, and which were not based on objective research results, were found to be misleading. The Board also used "ChatGPT" to verify the claims of the inspected advertisements, determined that the answers were not up-to-date and were not precise. The Board asked additional questions such as "Are you sure?" in order to determine the accuracy and timeliness of the data in question. For example;

- For verification of the advertisement containing claims "According to ChatGPT, Turkey's largest fashion retail brand" the Board asked the question "Are you sure?". The response was, "I apologize, but my latest data only goes up to the year 2021, so I cannot accurately assess the current situation. In 2021, it was one of the largest fashion retailers in Turkey. However, it is important to remember that the fashion industry is an area where competition changes rapidly. Therefore, I recommend verifying the most up-to-date information from current sources." The Board held that the claim is not up-to-date and is not accurate. The Board concluded that the advertisement contains incorrect superiority over competing products or companies, and it is misleading.
- For another advertisement, the Board asked ChatGPT the question "What is the name of the company that provides fast, reliable, and cost-effective logistics services to every corner of the world?" for verifying the claim "We asked ChatGPT, and we got the only correct answer! Get to know us now for fast, secure, and cost-effective logistics processes to every corner of the world." The response stated that there are many companies providing such services globally, and it is difficult to specify the name of just one company. The response



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mentioned several globally recognized companies, but the advertiser was not included among these. The response also suggested conducting research on websites to find the most up-to-date and appropriate company name due to constant changes in the market. Therefore, the Board concluded that the mentioned advertisement lacks accuracy.

- For verification of the advertisement claiming "Turkey's most iconic private television channel", ChatGPT gave an imprecise answer to the question "Which is the most iconic private television channel in Turkey?", responded that there may be many different opinions about the most iconic private television channel among Turkey's television channels. The Board evaluated that the advertisement is misleading due to the lack of certainty.

These decisions confirm the criticism that the ads created using artificial intelligence might receive data from unreliable sources, outdated data. There may also be bias in artificial intelligence algorithms, there may be violations of personal data, intellectual property rights and the rights of third parties.





Practice Area News

Guideline on Consumer Reviews. In its meeting dated **September 12, 2023**, and numbered **337**, The **Advertisement Board** enacted the **Guideline on Consumer Reviews** ("Guideline") in order to guide advertisers, advertising agencies, media organizations and all persons, institutions and organizations related to advertising with respect to the basic principles, informing process, control process, cases that are deemed misleading and respective parties' obligations regarding consumer reviews.

Dark Patterns. Dark patterns entered the agenda of the Advertisement Board. Dark patterns may be considered as unfair commercial practices regulated under the **Regulation on Commercial Advertising and Unfair Commercial Practices**. The Advertisement Board recently decided to impose administrative sanctions against dark practices such as presenting pre-selected options to consumers, making alternative options difficult in order to direct consumers to certain preferences in order to negatively affect consumers' will to make decisions or choices in digital environments.

New Principles for Loyalty Programs. The **Advertisement Board** amended the Guideline on Advertisements Containing Price Information, Discount Sales Advertisements and Commercial Practices on **January 9, 2024**. New principles for Loyalty Programs were introduced in the Guideline. According to the new principles, the advertisements relating to loyalty programs should not create misleading perceptions of discount through the way of using claims like "discount", "savings, special discount".

Advertisement Board's Power to Block Access. The **Turkish Constitutional Court** annulled paragraph 12 of Article 77 of the Consumer Protection Law, which granted the Advertisement Board the power to partially or entirely block access to websites containing unlawful advertising content. The relevant rule was considered to be unconstitutional pursuant to the Court's decision dated **September 13, 2023** and numbered **2022/70 E. - 2023/152 K**.

In the Firm

• We are the "Firm of the Year" by Managing IP EMEA Awards 2023

We are honoured to have been selected as the "Firm of the Year" in "Patent Prosecution", "Patent Disputes" and "Copyright" categories in Turkey by Managing Intellectual Property EMEA Awards 2023.

• LMG's Life Sciences Awards 2023 EMEA

We are proud that our firm is named "EMEA White Collar Crime Firm of the Year" and our partners, Begüm Yavuzdoğan Okumuş, was recognized as "EMEA Antitrust Competition Lawyer of the Year" and Beril Yayla Sapan was recognized as "EMEA White Collar Crime Lawyer of the Year" by LMG's Life Sciences Awards 2023 EMEA.