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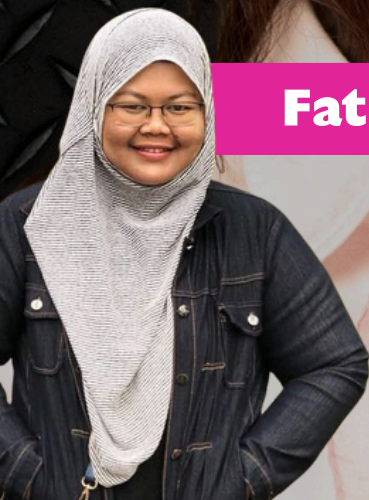
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AI MEETS BEAUTY.



THE FUTURE OF SKINCARE AND THE BATTLE FOR LEGAL ACCOUNTABILITY

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OVERVIEW OF AI-ENHANCED SKINCARE

AI-powered skincare revolutionises beauty by offering customised solutions through skin analysis tools, AI-driven recommendations, and virtual dermatologist consultations. Found in apps and smart devices, this technology helps consumers make informed choices but raises legal concerns. Issues like product liability and false advertising fall into a regulatory grey area. While brands like L'Oréal's Skin Genius and Neutrogena's Skin360 use AI, their legal reliability remains uncertain. This article examines Malaysia's legal gaps compared to the EU, US, and South Korea.

PRODUCT LIABILITY IN AI-POWERED SKINCARE

Product liability is the legal duty of manufacturers, sellers, and distributors for damages resulting from defective or hazardous products. Liability in AI-powered skincare becomes complex when adverse outcomes occur due to AI-generated advice. Unlike conventional skincare, which is subject to well-defined liability standards, AI-driven recommendations blur the line between a product and a service, thus creating challenges about who should take on accountability: software developers, skincare firms, or merchants.



The Consumer Protection Act 1999 (CPA), which regulates product liability in Malaysia, mostly covers faulty goods but leaves AI-generated suggestions unchecked. When a skincare product causes adverse effects, its manufacturer or seller is usually held liable. However, current rules do not clearly identify responsibility if an AI system provides an incorrect product or misdiagnoses a skin problem.



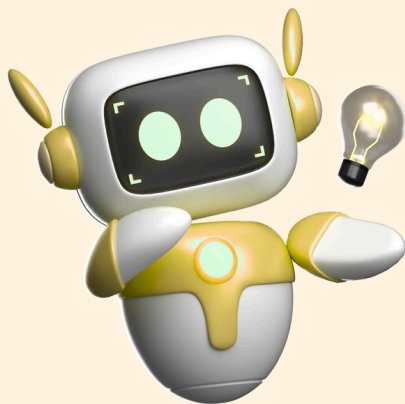
AI-powered skincare solutions like L'Oréal's Skin Genius and Neutrogena Skin360, which examine skin and suggest products, are especially affected by this issue. Notwithstanding their claims to improve skincare, Malaysia lacks legal precedent for holding these tools responsible for its skin-related issues. Clearer regulatory advice on AI liability in skincare applications is essential since consumers may find it challenging to seek legal redress if an AI-driven recommendation causes damage rather than a defective product.



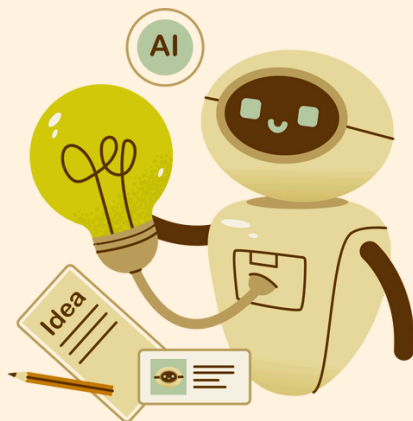
However, the EU's Product Liability Directive holds manufacturers strictly liable for AI-powered skincare tool faults that cause harm without fault. AI decision-making has to be transparent under the proposed AI Act, which might influence cosmetics applications. Based on product liability, negligence, or misrepresentation statutes, US courts evaluate liability for AI-powered skincare tools as products or services. Traditional product liability rules apply to AI tools that are products, while negligence or misrepresentation laws apply to services.



AI-specific liability legislation is currently under development in South Korea, which is renowned for its innovative beauty industry. Customers can pursue claims against manufacturers and distributors for defective products under the current Product Liability Act; however, artificial intelligence-driven skincare gadgets remain in legal ambiguity. Lawmakers are looking into the possibility of integrating accountability for artificial intelligence into consumer protection laws.



Malaysia does not currently have specific legislation addressing the liability of AI-driven skincare. If an AI-powered skincare application provides erroneous suggestions, resulting in negative reactions or worsening skin problems, those impacted may struggle to hold anyone responsible. There are no clear limits on AI's liability, which creates legal uncertainty and forces consumer protection laws to change how they deal with AI-generated advice.



UNMASKING THE HYPE: FALSE CLAIMS IN AI BEAUTY TECH

Another significant legal problem in the field of AI-powered skincare is the likelihood of false advertising. Exaggerated promises are made by several brands related to artificial intelligence-powered skincare technologies. Examples of these claims include "100% accurate skin analysis" and "personalised solutions for flawless skin". In general, the statements that are made are not supported by scientific evidence, which means that they could potentially mislead customers.



In Malaysia, misleading marketing is prohibited by the Consumer Protection Act 1999 and the Communications and Multimedia Act 1998. These laws prohibit fraudulent advertising strategies and require advertisements to be accurate and tested. However, no explicit restrictions regulate AI-powered skincare promises. This gap allows companies to offer AI-powered skincare tools with minimal oversight, making it challenging to hold them accountable for overstated claims.

Skin Genius from L'Oréal and Skin360 from Neutrogena are two examples of products that employ artificial intelligence to deliver tailored skincare advice. However, these products make claims of accuracy and efficacy that have not been verified by independent research. In Malaysia, there is a lack of oversight by the government, which raises concerns about the reliability of skincare products driven by artificial intelligence as well as the possibility of misleading advertising.



The EU enforces higher standards through the Unfair Commercial Practices Directive, which calls for all marketing claims to be supported by scientific evidence. Companies that make unsupported assertions about their AI-powered skincare products might face fines or be compelled to offer proof of efficiency. The proposed AI Act boosts transparency requirements, ensuring that AI-driven consumer product judgements are transparent and verified.

In the United States, the Federal Trade Commission (FTC) enforces truth-in-advertising regulations, forcing businesses to provide evidence to back up representations. Brands that make misleading AI-based skincare promises may risk legal action, as demonstrated in incidents where companies were punished for erroneous anti-ageing claims. Similarly, the Food and Drug Administration (FDA) regulates AI-powered skincare tools only if they have been classified as medical devices, ensuring that users are not deceived into believing they provide medical-grade accuracy.



South Korea has strong regulations on advertising claims for beauty and skincare goods. The Korea Fair Trade Commission (KFTC) enforces false advertising rules, requiring scientific proof of functional cosmetic claims, including those associated with AI-powered apps. Korean regulations restrict AI-powered skincare gadgets from suggesting medical-grade precision unless they surpass medical regulatory criteria.

Malaysia's lack of AI-specific advertising legislation results in loopholes in consumer protection against deceitful promises. While misleading marketing is prohibited by standard consumer regulations, there are no specific limitations for AI-powered skincare promises. To combat this, Malaysia might take the same approach to the EU and South Korea, obligating scientific validation for AI-powered skincare claims and implementing more rigid fines for fraudulent marketing.



CONCLUSION

The emergence of AI-driven skincare presents both potential and challenges for consumer safety. Malaysia lacks specific legislation regarding AI-driven skincare, resulting in a legislative hole concerning product liability and misleading advertising. Conversely, the EU, US, and South Korea adopt more stringent regulations. Malaysia should revise its consumer protection legislation by improving advertising standards and expanding liability to encompass AI-generated recommendations, thus safeguarding consumer welfare while fostering innovation in the beauty industry.

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