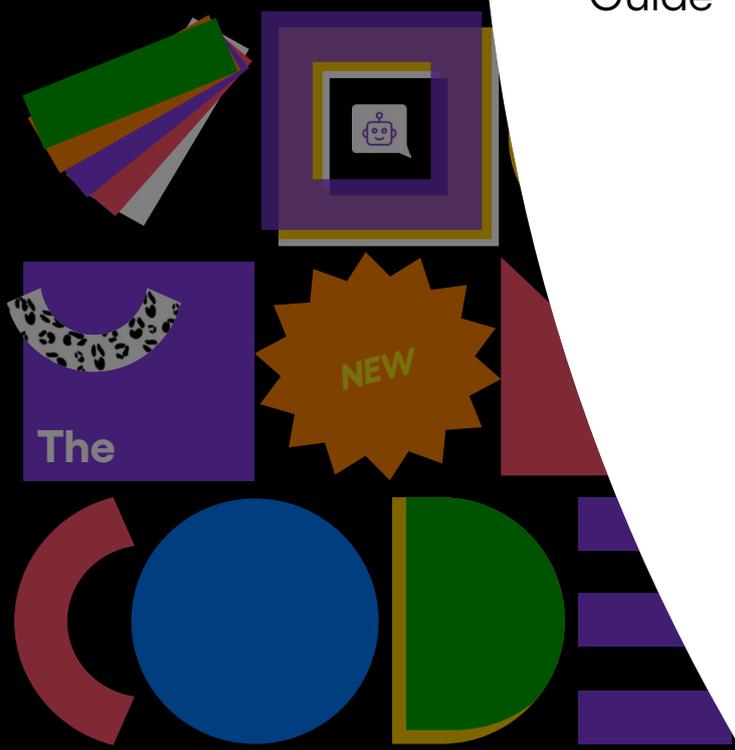


AI

Responsible AI in marketing

**How to apply the ICC Advertising
and Marketing Communications Code**

Guide



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1. Introduction and background

a. The ICC Code

As the world's largest business organisation, the International Chamber of Commerce (ICC) promotes high standards of business ethics through the development and dissemination of codes and guidance on responsible marketing and advertising communications.

One of ICC's landmark achievements is the ICC Advertising and Marketing Communications Code (the ICC Code). First adopted in 1937 and updated several times since then (most recently in 2024), the ICC Code provides practical guidance to advertising industry stakeholders, including advertisers and advertising agencies as well as to self-regulatory advertising organisations and national governments.

By promoting self-regulation in the business sector in accordance with globally recognised high ethical and legal standards, consumers can be confident that businesses abiding by the ICC Code and related ICC guidance can be relied upon to provide advertising that is legal, decent, honest and truthful, thus fostering a robust marketplace that both enhances creativity and preserves consumer trust.

The ICC Code sets forth general principles governing marketing communications of all types and in all media and including more specific sections related to matters such as marketing to children and teens and data-driven marketing.

b. The ICC Code and AI

In March 2024, ICC issued a statement addressing the use of artificial intelligence (AI) in advertising and marketing communications. This statement emphasises the media neutrality of the ICC Code and reminds marketers of their responsibility for ensuring that their communications are legal, decent, honest and truthful regardless of the technology used, including AI.

The 11th edition of the ICC Code, released later in 2024, includes updates that explicitly incorporate AI into the provisions of the ICC Code to help guide the use of AI in advertising and marketing. These updates do not mark significant departures from the longstanding principles of the ICC Code, which reflect the inherent media neutrality and universality of the ICC Code and its utility in emerging areas.

ICC produced this guide in light of the updated edition of the ICC Code and the importance and proliferation of AI technology. It provides guidance to marketers who grapple with questions of how to apply the ICC Code rules where AI is rapidly integrating into the ad creation and delivery process. The guide includes a summary of the most relevant ICC Code rules and two checklists to help marketers ask the right questions.

c. AI and advertising self-regulation

Marketers have long used digital tools and technology to enhance, create or deliver advertising campaigns. Such use does not affect the applicability of existing rules and standards. The same holds true with AI and, if anything, AI amplifies the importance of ethical and self-regulatory standards like the ICC Code. Naturally, the use of AI in advertising and marketing may raise questions about how existing rules apply in light of new technological developments. As such, ICC is keenly following

discussions and developments by other organisations in the area of marketing communications, which will be of ongoing interest to marketers who want to use developing technology responsibly.

It is important to note that AI is a complex and burgeoning area. It is subject to increasing regulatory scrutiny, a nascent legal landscape and diverse public opinion. Accordingly, the work of ICC in this guidance is not static. It may change and will continue to develop as new information becomes available.

We believe that it is the right time to set out what current industry best practice is in relation to AI and marketing communications in order to help ensure that AI is deployed responsibly in this area. This guide will be reviewed regularly and updated to ensure that it remains relevant as this technology develops and adoption grows.

A note on the use of AI by advertising self-regulatory organisations

AI-assisted monitoring tools for online advertising used by self-regulatory organisations is one part of the evolving AI application landscape. The monitoring of ads at scale and the application of AI to perform first-level reviews or hints for human reviewers can strengthen self-regulatory organisations and produce useful data about compliance. Over time, this can help both demonstrate the value and adoption of self-regulatory principles and areas for additional focus.

2. Purpose, audience and application of this guidance

The focus of this guidance is on issues related to the responsible use of AI in marketing communications.

The purpose of this guide is to provide:

- a straightforward guide to the way in which the ICC Code applies to AI and
- helpful materials for companies using AI in their advertising campaigns and individuals working on the same.

This guidance may serve as a “strategic compass” for an organisation implementing AI tools into their marketing and will help guide planning for governance, human adoption and decision-making, with the aim of ensuring that the use of AI in marketing is meaningful, responsible and builds consumer trust.

The audience of this guidance may have views and questions on many issues about AI, including its use in the provision of customer services or with respect to specific data privacy questions. These are outside the scope of this guidance, although we underline the fundamental requirement of the ICC Code to ensure that marketing communications are legal, decent, honest and truthful.

Also, as noted above, regulation, policy and viewpoints on AI continue to evolve, and we encourage all to keep a close eye on such developments.

3. The ICC Code’s position on the use of AI in advertising and marketing

The following section provides an overview of relevant ICC Code principles and commentary on their application in the context of AI. Citations to ICC Code text are presented in boxes. A compilation of direct references to AI in the 11th version of the ICC Code is also included in the [annex](#).

Applying the Code’s principles to AI

Content

The ICC Code is agnostic as to the type of technology and techniques used to create and display ads. Whatever the medium, advertising must adhere to the ICC Code.

Article 1 – Basic principles

All marketing communications should be legal, decent, honest and truthful.

Transparency

There may be circumstances in which it will be necessary to identify, in an appropriate way, that AI has been used in the creation of a campaign or specific elements within it in order to counter any potentially misleading impression.

The fact that generative AI output or AI systems were used to create advertising materials or marketing communications does not, by itself, require disclosure.

To comply with the ICC Code it is fundamental that advertising does not mislead. Consequently, disclosures may be necessary where they provide information to prevent consumer deception. However, a disclosure that AI has been used will ordinarily not cure claims that are false or misleading for other reasons.

The ICC Code requires evaluation of communications “*based on their likely impact on the reasonable consumer, having regard to the characteristics of the targeted group and the medium used.*” When considering whether an AI-related disclosure is advisable, be sure to consider the target audience for the marketing communication. When advertising to vulnerable audiences, consider whether the use of AI could mislead the audience to whom it is directed. Where a clarifying disclosure is necessary to avoid or may help to mitigate the potential risk of misleading that audience in particular, the disclosure should be in language understandable to that audience.

Article 5 – Truthfulness

Marketing communications should not contain any claim likely to mislead the consumer, regardless of how it is conveyed – by text, sound, visual elements or any combinations thereof – and regardless of how the misleading effect occurs – directly or by implication, omission, ambiguity or exaggeration. The combination of elements used in a marketing communication provides the net impression of a claim and controls how it is interpreted.

Responsibility

The use of AI does not absolve marketers of their responsibility for their advertising.

Marketers should know when generative AI output is incorporated in their campaigns. The ICC Code also requires that reasonable transparency is provided by those who prepare, offer and commercialise such systems to ensure that this is possible.

All participants in the marketing ecosystem have a responsibility to comply with the ICC Code.

As organisations implement AI in their marketing processes, they should consider updating internal training and governance processes to ensure that they remain up to date and that individuals understand their responsibility.

Section 2 – Scope and application of the ICC Code: Code responsibility

Marketers should assume overall responsibility for the communications they initiate and bring to the market, whether they largely do it themselves or have it done on their behalf. Responsibility cannot be avoided or circumvented by means of outsourcing or other organisational arrangements. Marketers should undertake their best efforts to ensure that their responsibility is reflected in arrangements with third parties over which they have control. In addition to the prime responsibility of the marketer, all those who contribute to the marketing communication have a responsibility in relation to their participation, influence, control and expected knowledge. [...]

Responsibility for the results produced by social media algorithms rests with the companies that create and manage them. In the case of user-generated content, which may accompany or relate to marketing communications (e.g. comments), responsibility lies with the individuals who created the content, given the lack of marketer control. Should the latter be found to be emanating from a marketer or associated third party, or reused in their marketing communications, it thereby falls back within the control and thus the responsibility of the marketer. [...]

Companies responsible for preparing, offering and commercialising AI systems, applications and other technologies for the creation, improvement and delivery of marketing communications should provide reasonable transparency to the marketer. [...]

Marketers who use algorithms or other artificial intelligence (AI) instruments have responsibility for the communication results they produce.

[...] The responsibility to observe the Code applies also to the various participants in the marketing ecosystem both offline and online. This would extend, but not be limited to, influencers and influencer networks, creators, bloggers, vloggers, affiliate networks, app developers, marketplaces, designers of online choice architectures (web and systems design), data analytics and ad tech companies, developers of artificial intelligence instruments such as algorithms, software or programming machines. This responsibility applies to the extent that the activities or measures of those actors are linked to and impact marketing communications.

Article 24 – Code responsibility

Marketers have overall responsibility for their marketing communications. The responsibility to respect the rules of the Code also applies to other participants in the marketing eco-system to an extent commensurate with their respective activities, and level of expected professional knowledge and control, including but not limited to agencies, media, market influencers, bloggers, vloggers, affiliate networks, data analytics, social and digital media platforms and ad tech companies as well as those responsible for preparing algorithms and the use of artificial intelligence for marketing communications purposes.

Respect for self-regulatory decisions

When engaging vendors to produce advertising that may involve the use of AI, the ICC Code encourages incorporating obligations to comply with the ICC Code and any other applicable regulatory or self-regulatory requirements or decisions.

Article 26 – Respect for self-regulatory decisions

[...] All parties should include a clause in their contracts and other agreements pertaining to marketing communications, committing signatories to comply with the applicable laws and self-regulatory rules, and to respect decisions by the relevant self-regulatory body and support its operation [...].

Data-driven marketing

AI presents new opportunities for understanding and using data. Marketers who are keen to deploy these capabilities should comply with the applicable provisions of Chapter C of the ICC Code, particularly in Articles C1 to C5 and C17, which cover, inter alia, notice and user control requirements and tracking.

Consent to use the likeness of real people

Some long-standing requirements of the ICC Code become more widely relevant in light of the potential use of AI to generate images of people including deepfakes and other uses of the likenesses of real, identifiable and/or well-known people. If AI is used to generate a likeness (e.g. video, image or audio) of or featuring real and identifiable people for use in marketing communications, or to materially repurpose or alter an existing image, the permission of those people should ordinarily be obtained and the scope of such permission respected before use of such likeness. Similarly, the scope of that consent for use of a person's likeness should be adhered to. The same consideration applies when using AI to repurpose or materially alter an existing image of or content featuring that person in a manner not covered by prior consent.

AI can also be used to generate a likeness of generic people who are not real. In this case, permission is of course unnecessary, and there are many uses of AI-generated likenesses of a generic person that will not require disclosure. However, depending on context, the presentation of an AI-generated human that could be perceived as real may implicate other ICC Code principles such as those discussed above related to content ([Article 1](#)) and transparency ([Article 5](#)). For example, if the AI-generated likeness gives the impression that it is a real human and a real user of a product or an authority (for example, a dentist or doctor) providing an endorsement or review, a disclaimer may be necessary.

Keep in mind that applicable laws are still emerging and additional requirements may vary.

Article 19 – Portrayal or imitation of persons and references to personal property

Marketing communications should not portray or refer to any persons, whether in a private or a public capacity, unless prior permission has been obtained from that person; nor should marketing communications without prior permission depict or refer to any person's property in a way likely to convey the impression of a personal endorsement of the product or organisation involved.

4. Checklists for AI in advertising and marketing

The following checklists serve as starting points to

- promote the responsible and ethical use of AI in advertising and marketing communications and
- help identify and address concerns – whether legal, brand image related or otherwise – when using AI in marketing materials.

a. Checklist for organisations deciding on the use of AI tools for advertising and marketing

This checklist is designed for companies looking to deploy AI in their advertising and marketing campaigns. It sets out questions guiding businesses in their decision on whether to use AI-driven tools for their advertising and marketing. The checklist aims to help them comply with the ICC Code and general marketing practices that are consistent with the spirit and purpose of the ICC Code.

1. Organisational responsibility and ethical culture

These questions focus on internal accountability, communication of standards to employees and third parties and fostering a broad culture of responsible and ethical AI use.

- Responsibility:** Who within your organisation has ultimate responsibility for the use of AI and its output in your marketing campaigns?
- Third-party communication and compliance:** Have you communicated your AI expectations and standards to relevant third parties? This includes those who create, produce, target and disseminate marketing campaigns on your behalf. How will you monitor and enforce compliance?
- Leadership culture:** How will you ensure that leaders model responsible use of AI in marketing and foster a culture in which employees are able to raise concerns?
- Sustainability:** Have you considered sustainability in your use of AI, including consistency with any sustainability goals or commitments your company may have?
- AI literacy:** How will you develop AI literacy within your organisation?
- Oversight:** What oversight mechanisms will you implement? Assess the nature (and potential risk of harm) of the automation that you are using and take a proportionate approach to oversight.

2. AI tool selection and governance

These questions focus on the formal process for choosing, approving and understanding the capabilities and limitations of AI technologies and tools within the organisation.

- What AI technologies or tools are approved for use by your organisation? What are the criteria for additions to this list?
- Have you reviewed and documented the limitations (e.g. legal, commercial v. editorial use; ownership/licensing) for AI technologies or tools that have been approved for use?

3. Data integrity and claims verification

These questions address the responsible handling of data used by AI tools and the process for ensuring that the resulting claims are accurate and substantiated.

- What restrictions will you place on the data that can be made available to specific AI tools and how will you make marketers aware of such restrictions? Consider what rights you have in the data and what rights you give the tool by providing the data.
- Are measures in place to protect AI systems and data from unauthorised access, manipulation or “poisoning” that could lead to non-compliant advertising?
- What will the process be to verify advertising claims generated by AI?
- How will you preserve substantiating evidence for AI-generated claims and underlying data?

4. Compliance, transparency and audience risk

These questions cover adherence to marketing standards (like the ICC Code), external disclosures and special considerations for vulnerable audiences to prevent misleading marketing communications.

- What disclosures will you require to identify the use of AI and in what circumstances?
- How will you inform marketers about their obligations under relevant advertising codes, including the ICC Code, and ensure that these are adhered to?
- Consider the audience of your campaigns. If your target audience is likely to comprise vulnerable audiences, such as children or the elderly, have you examined the level of transparency needed to avoid misleading them?

Select all

b. Checklist for marketers to responsibly use AI in advertising and marketing communications

This checklist is designed for marketers using AI in campaigns and suggests questions to consider in order to ensure that the end result is compliant with the ICC Code and general marketing practices that are consistent with the spirit and purpose of the ICC Code.

1. General compliance and oversight

-  **General requirements:** Have you applied the [ICC Marketing Communications Code Checklist](#) to your campaign, including with respect to the use of AI?
-  **Inputs:** Do the prompts and other material that you have made available to an AI system comply with your company's AI policies?
-  **Approvals and responsibility:** Have you followed your internal approval paths for the AI tools that you are using and for any end product that you are producing?
-  **Monitoring:** Do you have appropriate procedures in place to understand, as needed, what types of AI output you are using for your campaigns? Are you aware of how to address any issues should AI output be used in a manner that does not meet relevant advertising standards, including the ICC Code?

2. Truthfulness, claims and content integrity

-  **Product attributes:** Have you ensured AI-generated content does not alter or enhance any attribute of the product or service that you are advertising in such a way that it misleads consumers?
-  **Claims:** If AI is used to generate claims about your product or service (e.g. about product performance or environmental benefits), have those been substantiated like all other claims?

3. Transparency and audience protection

-  **Labelling:** Is your advertising likely to mislead reasonable consumers about your product or service without additional information about your use of AI?
-  **Vulnerable audiences:** If your target audience is likely to comprise vulnerable audiences, will your use of AI create a misleading impression about your product or service? Will this be resolved by disclosing the use of AI?
-  **Cultural and local:** Have you anticipated any cultural or local sensitivities that may need to be taken into account in connection with AI-generated content?

4. Third-party relationships and legal rights

-  **Permission and people:** Have you secured necessary consent from any real and identifiable individuals created by or featured in your AI marketing materials? For AI-generated images of generic humans, have you ensured that your use does not imply a false or misleading endorsement or impression that is material to consumer perception?

- **Sponsorship:** Does your use of AI-generated content create any false impression of an endorsement or partnership with an individual, brand or other third party?
- **Sales promotions:** Does your use of AI in the creation or conduct of a sales promotion comply with the ICC Code's requirements related to sales promotions?
- **Influencers:** Have you provided guidelines to influencers on the use of AI and made it clear that the same rules apply to AI as to all other marketing? Have you told influencers that they should continue to disclose their relationship with your brand, as required, and ensure that their statements are legal, decent, honest and truthful?

5. Risk management and consumer trust

- **Brand trust:** Have you considered whether your use of AI-generated content in a given campaign may affect the trust that users place in your brand or be inconsistent with what consumers expect from your brand?
- **Consumer perspective:** Even if you are comfortable with the above, always consider putting yourself in the position of the consumer and ask: Could your use of AI nevertheless create some concerns that should be addressed?

Annex: Direct references to AI in the ICC Code

The 11th version of the Code includes specific references to AI where this was considered useful or particularly pertinent.

Article 5 – Truthfulness

[...] Audiovisual materials such as photos, video, sounds or other illustrations that are likely to mislead the consumer with regard to either a product's characteristics, performance, benefits, quality and expected effects, or the association of a person or organisation with the product, should not be used, including where these are misleading because they have been altered or enhanced (e.g. AI-generated or by so-called photo and video editing).

Chapter A – Sales promotion

This chapter applies to marketing devices and techniques which are used to make products more attractive by providing some additional benefit (promotional item), whatever its form, or the expectation of such a benefit. Promotional activities are covered whether a purchase is required for participation or not.

The chapter applies irrespective of the form of distribution or media or technology used. It also applies to sales and trade incentive promotions by analogy, and to editorial promotional offers and to those made by any other forms of media.

This chapter applies to a sales promotion regardless of who is producing it, or how it is produced and executed. Thus, the rules cover promotional practices where algorithms or other artificial intelligence instruments are being used. They also cover all the different ways a sales promotion may be brought to the market and advertised, including through social media or with the help of influencers and affiliate networks.

Scope of Chapter B – Sponsorship

This chapter applies to all forms of sponsorship relating to corporate image, brands, products, individuals ("talent"), activities or events of any kind. It includes sponsorship by both commercial and non-commercial organisations, including sponsorship elements forming part of other marketing activities such as sales promotion or direct marketing. Furthermore, these rules, as well as the General Provisions, apply regardless of how sponsorships are created, modified or delivered, i.e. whether by humans or through automated means, such as AI and algorithms.

Scope of Chapter C – Data-driven marketing, direct marketing and digital marketing communications

Unless specifically indicated otherwise, this chapter applies to all participants in the data-driven marketing, digital marketing and direct marketing ecosystem and their marketing communications activities. It sets standards of ethical conduct to be followed by all parties involved in data-driven, digital and direct marketing communications.

These rules, as well as the General Provisions, apply regardless of how marketing communications are created, modified or delivered, i.e. whether by humans or through

automated means such as AI and algorithms. Those employing such automated technologies should exercise due oversight to ensure that they meet ethical standards and maintain compliance with the Code, commensurate with their role in the process (see Article C1, Responsibility).

The rules are designed to be technology-neutral and future-proof. Companies should seek to apply the Code as soon as possible to new technologies.

Due to the rapidly changing and developing nature of digital interactive media, additional guidance regarding interpretation and application of these rules is issued by ICC where necessary and can be found on the ICC webpage concerning Marketing Communications and Advertising Codes.

Article C1 – Responsibility

All parties concerned need to take into account that responsibility also applies to other participants in the data-driven marketing, digital marketing and direct marketing ecosystem including: [...] those responsible for preparing algorithms for marketing communications and those responsible for designing virtual universes.

About the International Chamber of Commerce

The International Chamber of Commerce (ICC) is the institutional representative of more than 45 million companies in over 170 countries. ICC's core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, we promote international trade, responsible business conduct and a global approach to regulation, in addition to providing market-leading dispute resolution services. Our members include many of the world's leading companies, SMEs, business associations and local chambers of commerce.



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