



Sergio Mujica

ISO Secretary General
Chemin de Blandonnet 8
1214 Vernier, Geneva
Switzerland

Paris, 27 Septmeber 2024

Dear Mr Mujica,

We are writing on behalf of the International Chamber of Commerce (ICC) to express industry concerns regarding the recent proposal to establish an International Organisation for Standardisation (ISO) technical committee on digital marketing.

While we acknowledge the proposal's intentions, we believe that creating an ISO standard for digital marketing poses a significant risk of duplicating and undermining existing international standards. Therefore, we cannot support this initiative.

We would like to take this opportunity to highlight that, after two years of intense work, **we have just released the 11th edition of the [ICC Advertising and Marketing Communications Code](#)** (attached for your reference), marking the most comprehensive revision in at least a decade. The 2024 version is more structured with clearer chapters and sections, particularly in "Chapter C – Data Driven Marketing, Direct Marketing and Digital Marketing Communications" (see below Annex - Relevant extracts of 2024 ICC Code provisions). This chapter makes it easier to navigate and understand specific provisions related to each type of marketing. The 2024 version includes more detailed and specific provisions, especially regarding new technologies like AI and algorithms, and emphasizes the need for ethical oversight in their use. It also provides more comprehensive guidelines on transparency, cost of communication, and respect for children, reflecting a modern approach to current marketing practices and consumer protection. Furthermore, the 2024 version is designed to be technology-neutral and future-proof, encouraging companies to apply the Code to new technologies as soon as possible. This forward-thinking approach ensures that our guidelines remain relevant in a rapidly evolving digital landscape.

By way of background, since 1937, through eleven revision processes, businesses worldwide have worked through the ICC to promote high standards of ethics by business self-regulation through the ICC international advertising and marketing codes. These codes have been implemented, referenced, and endorsed by companies, associations, governments, and national organisations across the world, providing a framework for responsible advertising that is both globally consistent and reflective of global consumer protection standards. The ICC Advertising and Marketing

Communications Code is already expressly recognised and implemented in 42 countries around the world, where self-regulatory authorities are in place.¹

Once again, ICC recognises ISO's commitment to developing international standards to provide solutions to global challenges and to developing principles and best practice guidelines for all marketers to protect consumers from any digital marketing harm. We also appreciate the ICC/ISO strengthened relationship through the Memorandum of Understanding signed in 2022.

However, we firmly oppose the initiative to establish a new standard for digital marketing at this time. We strongly believe that effective, globally recognised, and up-to-date guidelines for advertising and marketing communications, including digital marketing, are already in place through the ICC Code and functioning effectively.

Thank you for your attention to this matter. We remain available for further discussions and look forward to continued collaboration.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Andrew Wilson', is positioned above the printed name.

Andrew Wilson
Deputy Secretary General – Policy
International Chamber of Commerce

¹ Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, UK, Brazil, Canada, Chile, Argentina, Mexico, El Salvador, Uruguay, Colombia, Australia, India, New Zealand, Japan, Philippines, Singapore, UAE, South Africa, Zimbabwe.

Annex - Relevant extracts of 2024 ICC Code provisions

General coverage

The Code applies to all marketing communications, regardless of form, format or medium of delivery. It addresses both B2C and B2B marketing communications (see General definitions for definition of consumer). The concept of marketing communications should be interpreted broadly (see definitions) with their primary purpose being commercial, aimed at promoting products or influencing consumers' behaviour. The Code applies to the marketing communication in its entire content and form, including testimonials, remunerated posts and statements and audio or visual material originating from other sources and material factors with an impact on ad content likely to influence consumer decisions. The fact that the content or form of a marketing communication may originate wholly or in part from other sources does not justify non-observance of the Code rules.

Code responsibility

The principle of responsible marketing communications is fundamental to the Code. Without responsibility there cannot be any consumer trust. The general rules on responsibility are technology neutral. In addition, specific rules relevant to particular activities or media are found in their respective chapters of the Code.

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. See article 24.

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

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.

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.

The responsibility to observe the Code applies also to the various participants in the marketing eco-system both off 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 by those actors are linked to and impact marketing communications.

Agencies and other marketing practitioners should exercise due care and diligence in creating marketing communications, enabling marketers to comply with their responsibilities.

Publishers, media owners, platforms, contractors or other parties, who publish, deliver or distribute marketing communications should act diligently in accepting them for presentation to the public. Communications that can readily be seen to breach the Code should be rejected.

Chapter C – Data Driven Marketing, Direct Marketing and Digital Marketing Communications

Scope of Chapter C

Unless specifically indicated otherwise, this chapter applies to all participants in the data driven marketing, digital marketing and direct marketing eco-system 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 made by the ICC where necessary and can be found on the ICC [website's page](#) concerning Marketing Communications and Advertising codes.

Terms specific to data driven marketing, digital marketing and direct marketing communications

- the term “**data driven marketing**” is the communication, by whatever means, of advertising or marketing material based on the processing of data (personal or non-personal)

acquired through direct interactions with individuals or through third parties to gain insights on, for example, customer interests, trends and behaviors

- the term “**digital marketing communications**” refers to marketing communications, using digital advertising or digital interactive media, including virtual universes, platforms and channels, intended primarily to promote products or to influence consumer behaviour
- “**direct marketing**” is the communication, by whatever means, of advertising or marketing material carried out by a direct marketer itself or on its behalf, and which is delivered to particular individuals using their personal contact information (including mailing address, telephone number, email address, fax, personal social media account handle, and the like, but for the avoidance of doubt, excluding online advertising displayed within a website, app or other property visited by the individual)

General Provisions For Data Driven Marketing, Digital Marketing And Direct Marketing Communications

Article C1 – Responsibility

As defined in Article 24 (Code Responsibility) of the General Provisions, whatever the nature of the activity, medium or technology, responsibility for data driven, digital and direct marketing activities is shared by all the parties concerned, commensurate with their respective role in the process and within the limits of their respective functions.

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 eco-system including:

- operators, telemarketers or data controllers, or their digital ad agencies, other service providers and their subcontractors, who contribute to the activity or communication
- interest-based advertising, data analytics and ad technology companies; publishers, platforms and channels, media-owners, affiliate networks or contractors who publish, transmit or distribute the offer or any other marketing communication
- market influencers, bloggers and vloggers
- those responsible for preparing algorithms for marketing communications, and
- those responsible for designing virtual universes

Article C2 – Identification and transparency

Marketing communications should be properly identified, subject descriptors should be accurate and the commercial nature of communications, as well as the identity of the marketer, should be transparent to consumers in accordance with Articles 7-8 of the General Provisions.

Article C3 – Presentation of the offer

The terms of offers should be presented in a transparent and understandable manner in accordance with Article 11 (Presentation of the Offer) of the General Provisions.

Article C4 – Transparency on cost of communication

Where the cost to consumers of accessing a message or communicating with the marketer is higher than the standard cost of that mode of communications, e.g. “premium rate” for an online

message, connection or telephone number, this cost should be made clear to consumers, expressed either as “cost per minute,” “cost per message,” “message or data rates may apply,” or other similar means likely to be understood by the consumer. When this information is provided online, consumers should be clearly informed of applicable charges at the time when they are about to access the message or online service and be allowed a reasonable period of time to disconnect without incurring the charge.

Where a communication involves such a cost, the consumer should not be kept waiting for an unreasonably long time in order to achieve the purpose of the communication and calls should not be charged until the consumer can begin to fulfil that purpose.

Such costs should not be charged for calls or other types of interactions aimed at making a complaint or receiving information on an ongoing order process.

Article C5 – Respect for children

All parties involved in the creation and targeting of data driven, digital and direct marketing communications should take special care to comply with Article 22 of the Code on data protection and privacy, Article C.17.8 and Chapter E pertaining to marketing communications directed to or featuring children or teens.

Digital Marketing

The following provisions apply specifically to digital marketing:

Article C15 – Respect for public groups and review sites

Where digital interactive media (e.g., news groups, forums, blogs, vlogs, bulletin boards, wiki sites) has rules and standards of acceptable commercial behaviour, these should be respected. Marketing communications should only be posted to such places when the forum or site has implicitly or explicitly indicated its willingness to receive such communications. Such communications should be suitably identified.

Article C16 - Respecting consumer use of digital interactive media

Due care should be taken to ensure that digital marketing communications and/or any application used to enable consumers to open other marketing or advertising messages, do not unduly interfere with the consumer’s usage or experience of digital interactive media.

Data Driven Marketing

The following articles apply specifically to data driven marketing.

Participants in data driven marketing should take special care to comply with Article 22 (data protection and privacy) of the General Provisions.

Article C17 – Interest-based advertising (IBA)

Scope

The following applies to IBA focusing on web viewing behaviour over time and across multiple web domains or applications owned and operated by different unaffiliated entities in order to create interest segments (a collection of users that share one or more attributes based on prior and current online browsing activity) or to associate such viewing behaviour against interest segments for the purposes of delivering advertisements to and by that web user’s interests and preferences.

These provisions apply to all individuals and entities engaged in such activities online.

Definition of terms specific to IBA provisions

- the term “**interest-based advertising**” or “**IBA**”, and also referred to as “online behavioural advertising” or “**OBA**” refers to the practice of collecting information over time on users’ online actions on a particular device across different unaffiliated websites or applications in order to create interest segments or to allocate such viewing behaviour against interest segments for the purposes of delivering advertisements to and by that web user’s interests and preferences. It pertains to advertising operations on desktop, in mobile, video or TV, social, or IoT settings, and includes tracking and targeting across devices. IBA does not include quantitative ad delivery or quantitative ad reporting, or contextual advertising (e.g., advertising based on the content of the web page being visited, a consumer’s current visit to a web page, or a search query)
- in the context of IBA, the term “**third party**” refers to an entity that engages in IBA on a digital property other than a digital property which it or an entity under common control owns or operates
- in the context of IBA, the term “**first party**” refers to an entity that engages in IBA on a digital property which it or an entity under common control owns or operates.
- the term “**consent**” means an individual’s freely given, specific and informed indication in response to a clear and conspicuous notice regarding the collection and use of data for online behavioral advertising purposes
- the term “**user-facing portal**” refers to an internet-user-focused site and educational portal, that provides, at a minimum, a mechanism for users to receive more information and means to exercise choice with respect to the collection and use of data for IBA purposes by one or more third parties or links to a mechanism permitting user choice over IBA

Application of notice and choice provisions

Any party participating in IBA should adhere to principles of notice and user control as set out below. Transparency of data collection and use, and the ability for users and consumers to choose whether to share their data for IBA purposes is vital. The following guidance provides further clarification for how these principles apply to IBA.

C17.1 Notice

Through company-specific measures and/or complementary industry frameworks that are user-friendly, accessible and intuitive - such as those featuring prominent markings - third parties and website operators should provide meaningful transparency by giving clear and conspicuous notice of their IBA data collection and use practices. Such notice may refer to the relevant self-regulatory guidance and industry best practices in each jurisdiction (for instance EDAA in Europe, DAA/DAAC

in North America). Notice should be provided through deployment of one or multiple mechanisms for clearly disclosing and informing Internet users about data collection and use practices².

C17.2 User control

Through company-specific measures and/or complementary industry frameworks that are user-friendly, accessible and intuitive, third parties should make available a mechanism for web users to exercise their choice with respect to the collection and use of data for IBA. Such choice should be available via a link from the notice mechanisms described in footnote 10.

C17.3 Enforcement

Third parties' compliance to the principles of notice and user control should be subject to mechanisms coordinated by national-level and - where applicable - international-level enforcement bodies (e.g. advertising self-regulatory organisations). Third parties that do not respect these principles should be subject to the applicable sanctions administered by the aforementioned bodies. Third parties may choose to undergo independent certifications to verify their compliance.

C17.4 Education

Third parties are encouraged to point towards a consistent, common resource for the education of consumers on jurisdiction-specific multi-language user-facing portals, that provide periodically updated information in a user-friendly language and different formats - e.g., useful videos, jargon buster, etc. Third parties may - and are encouraged to - contribute materials for potential inclusion on the user-facing portals, where applicable, in support of this furthering the educational goals.

C17.5 Precise location

Precise location data is location data that describes the precise location of a device derived through any technology that is capable of determining with reasonable specificity the actual physical location of an individual or device, such as GPS-level latitude/longitude coordinates or location-based frequency signal triangulation.

Location data includes unique values assigned or attributed to a device or a unique combination of characteristics associated with a device where combined with location data. For example, location data may include data obtained from cell tower triangulation techniques or Wi-Fi, latitude- longitude coordinates obtained through GPS technology, or beacons using Bluetooth technology. This is relevant for both IBA based on marketing communications delivered to a group of devices as well as an individual device only. Location data does not include registration details,

² Examples of how third parties, and where applicable website operators can provide notice of the collection of data for IBA purposes include mechanisms like an icon that links to a disclosure either in or around the advertisement delivered on the web page where data for IBA purposes is collected or somewhere else on the web page; or through a web link to an industry-developed website(s) where third parties are individually listed.

including postcodes, city name or billing address, or general geographic information derived from an IP address.

Privacy disclosures should make clear the ways in which sites, apps, and services (including, for example, Application Programming Interfaces (APIs) and Software Development Kits (SDKs) available for use by third parties access, use, and share precise geolocation data. Companies should also disclose all mechanisms through which location information is collected (e.g., Wi-Fi, Basic Service Set Identifier (BSSID)) and ensure that consumer choice related to collection of location data is never circumvented (by collecting Wi-Fi state, for example, when other location services are turned off).

After serving and delivering an IBA ad based on precise location data in real time, such data should be retained only for the purposes and periods specified at the time of collection.

C17.6 Cross device tracking

Disclosures and choices offered to consumers and to the first-party companies on whose websites and apps cross-device tracking companies appear should address the many forms of tracking used, including any proprietary techniques that combine technologies (e.g., cookies, fingerprinting, cookie syncing, as well as alternative cookieless technologies). These disclosures should also disclose tracking across multiple devices.

Users should not be led to believe tracking is more limited than it is, or that they have blocked all tracking across all apps, browsers and user devices when that is not the case. If the choices offered do not cover all the ways companies track consumers, then this should be clearly and prominently indicated.

C17.7 Data security

Appropriate physical, electronic, and administrative safeguards to protect the data collected and used for IBA purposes should be maintained at all times.

Data that is collected and used for IBA should only be retained for as long as necessary to fulfil a legitimate business need, or as otherwise permitted by law.

Reasonable industry-accepted protocols for data storage or disposal should be utilised.

C17.8 Children

Segments specifically designed to target known children for IBA purposes should not include children whose parent or legal guardian has not given appropriate consent.

C17.9 Sensitive data segmentation

Those seeking to create or use IBA segments relying on the use of sensitive data as defined under applicable law should obtain a web user's prior consent.