***NC V1 CRTF V2 DRAFT***

**ICC Advertising and Marketing Communications Code GENERAL PROVISIONS 2024**

**Preface**

The International Chamber of Commerce (ICC) is uniquely positioned to provide insightful guidance on marketing and advertising around the globe. As the world business organization, whose membership is composed of thousands of enterprises from all sectors and regions, ICC has been a major rule-setter in marketing and advertising since 1937 when it issued the first ICC Code on Advertising Practice.

Over the years, the ICC Code has served as the inspiration of self-regulatory codes and building block for self-regulatory structures around the world. These self-regulatory systems have built trust with consumers by assuring them of advertising that is honest, legal, decent and truthful as well as quick and easy redress when transgressions occur.

The Code also has served business and society by providing ethical guidelines that create a level playing field and minimize the need for legislative or regulatory restrictions. As new practices and technologies have evolved, ICC has revised and extended the scope of the Code to assure its usefulness and relevance. This revision is in line with changes in behaviour resulting from the ongoing digital revolution and sets a gold standard for modern rule-making.

We believe this 2018 edition of the ICC Advertising and Marketing Communications Code will continue to build trust with consumers and acceptance for the role of self-regulation around the world.

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Introduction

**Responsible advertising and marketing communications**

Advertising and other forms of marketing communications are vital means of communicat­ing between marketers and customers. They help to create efficient markets, both nation­ally and internationally, promote economic development, and bring significant benefits for both consumers and companies, as well as for society in general.

Responsible advertising and marketing communications, based on widely supported self-regulatory codes of conduct, are an expression of the business community’s recognition of its social obligations. The fundamental value of self-regulation lies in its ability to create, enhance and preserve consumer trust and confidence in the business communities behind it, and thereby in the marketplace itself. Effective self-regulation is also an instru­ment for the protection of individual companies’ goodwill and reputation.

The first ICC advertising code was issued in 1937 to provide a globally acceptable frame­work for responsible creativity and communication. The Code still remains today the global reference point for advertising and marketing communications standards. Independent systems of self-regulation have been successfully applying the ICC Code, which has been continually developed and refined in response to societal, technological and economic changes. The use of properly implemented advertising and marketing com­munications codes is acknowledged and accepted in all major markets as industry best practice and a recognized means of providing additional consumer protection. Self-regulation is a tried and tested system which has served responsible business well, for the benefit of consumers all over the world.

This Code reflects ICC strategic priorities around fostering growth, innovation, the digital economy, and sound governance. It specifically responds to the priority for promoting the rule of law and sound governance, notably by:

* shaping a predictable and clear international regulatory environment for companies to conduct business in a sustainable and responsible way
* developing voluntary rules and self-regulatory instruments to help companies meet their legal obligations and to promote good business practice
* contributing to building a coherent international regulatory framework for world business

**10th Code Revision – significant changes**

The rapid evolution of technology and technologically-enhanced marketing communica­tions and techniques means that producing responsible marketing communications that are trusted in a digital world has never been more important for companies in preserving their ‘license to operate’.

For this reason, the 10th revision addresses both the Code’s usability and its applicability to technology enhanced marketing communications and techniques. It sets a gold standard for modern rulemaking in our digital world.

Significant changes include:

* addressing in Chapter C direct marketing and digital marketing communications by combining previous code Chapters C and D
* clearer transparency and disclosure concerning commercial versus editorial and user-generated content
* clearer application to all mediums and platforms including social media, mobile, virtual and marketing communications using artificial intelligence
* applicability to other participants in the marketing eco-system, including market influencers, bloggers, vloggers, affiliate networks, data analytics and ad tech companies[[1]](#footnote-2) as well as those responsible for preparing algorithms for marketing communications

The drafting of the Code has been informed by legal developments and major pieces of legislation around the world, such as in the area of consumer protection, privacy and fair competition. The Code is designed to establish a sound ethical framework to govern marketing practices worldwide based on twin goals of fostering consumer fairness and trust, and the freedom of commercial communications. For obvious practical reasons, the Code cannot reference those legal instruments that may be relevant in a given situation and jurisdiction.

**Review**

The ICC Marketing and Advertising Commission will continue to regularly review this Code to ensure it continues to remain relevant in a dynamic legal, social and technological environment.

**The Code and the law**

Codes of conduct and legislation pursue different objectives and may not share the same scope. There is, however, usually a fairly large interface and their respective fields of application may coincide to a larger or smaller extent. This Code sets standards of ethical conduct and hence cannot, and indeed should not, reflect specific legal requirements, nor is it intended as an instrument of law enforcement but rather a mark of professional diligence. However, the Code embraces the principle of legality in Article 1 of the Code in that all marketing communications should be legal, decent honest and truthful. It follows that it can never be in accordance with good business standards to break the law. But the fact that a communication is legal does not necessarily mean it is also ethically acceptable or appropriate. Therefore marketers and other parties need to make sure their marketing communications activities observe applicable laws and regulations in a market, as well as the relevant provisions of the Code.

**Purpose of the Code**

The ICC Code is intended primarily as an instrument of self-regulation for marketing communications; however, its provisions may also be useful for non-commercial forms of advertising and communication and it may be used by the Courts as a reference document within the framework of applicable legislation. ICC recommends its adoption and use worldwide.

The Code is intended to achieve the following objectives:

* to demonstrate responsibility and good practice in advertising and marketing communications across the world
* to enhance overall public confidence in marketing communications; to respect privacy and consumer preferences; to ensure special responsibility as regards marketing communications and children and teens
* to safeguard the freedom of expression of those engaged in marketing communications (as embodied in article 19 of the United Nations International Covenant of Civil and Political Rights)
* to provide effective practical and flexible solutions to consumer protection issues; to minimise the need for detailed governmental and/or inter-governmental legislation or regulations

**Code Structure and interaction with related codes**

The ICC Code is constructed as an integrated system of ethical rules. There are **General Provisions and Definitions** which apply without exception to all marketing communi­cations; these should be read in conjunction with the more detailed provisions and specific requirements set out in the relevant chapters:

* Chapter A – Sales Promotion
* Chapter B – Sponsorship
* Chapter C – Direct Marketing and Digital Marketing Communications
* Chapter D – Environmental Claims in Marketing Communications

The Code should also be read in conjunction with other current ICC codes, principles, and framework interpretations in the area of marketing and advertising:

* ICC International Code of Direct Selling
* ICC/ESOMAR International Code on Market, Opinion and Social Research and Data Analytics
* ICC Principles on Responsible Deployment of Electronic Product Codes
* ICC Framework for Responsible Food and Beverage Communications
* ICC Framework for Responsible Environmental Marketing Communications
* ICC Framework for Responsible Marketing Communications of Alcohol

A brief summary of these is provided at the end of the code and full texts on the ICC marketing codes web space.

**ICC Marketing Code – www.iccwbo.org/MarketingCode**

ICC’s Marketing Code web page provides the latest texts of this and other ICC marketing codes and framework guidance. This gives quick access to all relevant Code provisions with regard to a specific subject or issue. It also provides relevant ICC statements or guidance issued with regard to the interpretation of the Code e.g. on native advertising and on children. The web page includes official locally translated versions of the Code, additional tools and resources, and access to an online training course.

**Cross-border communications – origin and jurisdiction**

Before engaging in cross-border marketing communications, marketers need to consider what rules would be applicable. There are basically two principles: either the rules of the country from where the message or activity originates apply, or those of the country (or countries) receiving it. As a matter of policy ICC favours the principle of origin in the field of marketing communications and recommends it for the application of self-regulatory rules. However, the question of jurisdiction, i.e., what country (state or region) would have legal authority and what national laws would be applicable in a given case, is de facto a complicated matter. Marketers are therefore urged to assess the legal situation regarding where they target their marketing communications, and to familiarize themselves with the rules and regulations of the various relevant jurisdictions.

When applied in different countries or specific markets, ICC global codes enhance harmo­nization and coherence, yet they are flexible enough to accommodate variations in culture and societal rules and norms. Legislation and regulation are not always consistent across borders, and in such cases, marketers are expected to adhere to local rules.

1. **General Provisions and definitions on advertising and marketing communications**

**Definitions**

The following general definitions apply throughout the Code. Terminology relating to a specific chapter or subsection is defined in that chapter or sub-section.

For the purposes of this Code, the term:

* *“****advertising****”* or *“****advertisement****”* means any form of marketing communications carried by the media, usually in return for payment or other valuable consideration.
* “***children****”* refers to consumers aged 12 years and under[[2]](#footnote-3)
* *“****consumer****”* means any person who can reasonably be expected to be affected by marketing communications, whether as a private individual or as a commercial customer or user
* “***digital interactive media***” refers to the full platforms and tracking technologies, including mobile, video, addressable TV, social media, Internet of Things (IoT), wearables, and cross-device tracking, and associated algorithms
* ***“Influencers and influencer marketing”*** influencer marketing means marketing communications activities carried out by an individual (an influencer, creator or brand ambassador), organisation or machine-created or controlled representation i.e. an avatar, who shapes audience attitudes for commercial purposes such as those of its followers on digital interactive media. Their connection to the marketer may not be readily apparent to a consumer.

They include any human-controlled online profile that is active on any online social media platform. Content uploaded by influencers is defined as a marketing communication only if the influencer has received some form of compensation from the brand, whether financial or through other arrangements.

* **“kidfluencer”** means a child or underage teen influencer. Kidfluencers typically have their social media accounts run by their parents or legal guardians, who may be influencers themselves
* *“****marketing communications****”* includes advertising as well as other techniques, such as promotions, sponsorships as well as data driven marketing and digital marketing communications, and should be interpreted broadly to mean any communications produced directly by or on behalf of marketers intended primarily to promote products or to influence consumer behaviour
* “**mobile**” refers to mobile phones and wireless devices (such as, but not limited to, portable game consoles, tablets, wrist watches, etc.) which a user can call from and interact with, which require a subscriber identity module (SIM) card or personal identifier for the user.
* *“****marketer****”* refers to persons or companies, including advertisers, sales promoters and direct marketers, who or on whose behalf marketing communications are published or disseminated for the purpose of promoting their products or influencing consumer behaviour
* *“****offer****”* means any presentation or solicitation for the sale or purchase of products
* *“****personal data****”* means any information relating to an identifiable individual and does not include anonymized information
* *“****preference service****”* (“Robinson List”) means the administration and operation of a suppression file of consumers who have registered a wish not to receive unsolicited direct and digital marketing communications using a specific medium, against which marketing lists are matched
* *“****product****”* refers to anything that constitutes the subject of an advertisement; this usually means physical products (goods) or services, but is not restrictive and includes energy, investments, software and real estate; where appropriate the Code may be applied more widely, e.g., to concepts
* “**research**” which includes all forms of market, opinion and social research and data analytics, is the systematic gathering and interpretation of information about individuals and organisations. It uses the statistical and analytical methods and techniques of the applied social, behavioural and data sciences to generate insights and support decision-making by providers of goods and services, governments, non-profit organisations and the general public[[3]](#footnote-4)
* “***teens****”* means those individuals aged 13 - 17 years

**Scope and application**

The Code covers all marketing communications, regardless of form, format or medium used to deliver. Marketing communications are to be understood in a broad sense (see definitions) where the prime purpose is commercial, intended primarily to promote products or to influence consumers’ behaviour. Where there is mixed content the marketing communication element should be made clearly distinguishable as such, and its commercial nature should be transparent.

In some cases, the primary purpose of a communication needs to be determined to understand whether it is in scope or not. Thus, for instance the following would fall within remit:

* claims made in marketing communications, for example about CSR programmes, sustainability, environmental, economic and social conditions and rights.
* Product or company related content uploaded by influencers typically if the marketer compensated the influencer either via payment or through other arrangements, regardless of whether these considerations arise from a formal contract or any other agreement. The level of content control by the marketer is usually indicative of whether there is clear commercial purpose, and hence a marketing communication, or not.
* marketing communication elements of a CSR programme, for example where a sponsorship is included in such a programme.
* issue-based/purpose-driven advertising, underpinned by commercial motives to promote the image of a brand, organization or sector in order to influence consumers’ transaction decisions in relation to products or business activities.
* marketing communications placed within, for example the context of games, posts on social media platforms or personal communications.
* product labelling or packaging that appears in a marketing communication

The code does not extend indiscriminately to every type of corporate communication. For instance, the Code may not apply to corporate public affairs messages in press releases and other media statements, or to information in annual reports and the like, or information required to be included on product labels. Likewise, statements on matters of public policy fall outside the scope of this code. Corporate Social Responsibility (CSR) programmes as such are not covered by the Code. Finally, communications whose primary purpose is informational, entertaining or educational and not commercial, such as the content of television programmes, films or series, podcasts, books, magazines, games, or political campaigns are not intended to be covered by this code.

The Code’s standards of ethical conduct should be observed by everyone, including human-developed and owned software, AI and machines concerned with analysing, preparing and delivering marketing communications. Responsibility for the observance of the rules of conduct laid down in the Code rests with the marketer whose products are the subject of the marketing communications, with the communications practitioner or agency, and with the publisher, media, platform or channel owner or contractor. The responsibility to observe the Code also applies to other participants in the marketing eco-system. See Article 28.

Implementation of the Code will vary depending on individual circumstances: it may be applied by self-regulatory organisations set up for the purpose, as well as by individual companies, agencies, media, etc.

The Code is to be applied against the background of whatever legislation may be applicable.

**Interpretation**

The ICC Code is to be interpreted in the spirit as well as to the letter. It applies to marketing communications in their entirety, including all words and numbers (spoken and written), visual treatments, music and sound effects, and material originating from other sources. Because of the different characteristics of the various media, e.g. press, television, radio and other broadcast media, outdoor advertising, films, digital interactive media, social media, direct mail, electronic messaging, telephone, device etc., marketing communications which are acceptable for one medium may not necessarily be acceptable for another.

Communications should be judged by their likely impact on the reasonable con­sumer, having regard to the characteristics of the targeted group and the medium used.

This means that marketing communications should be assessed having regard to the knowledge, experience and discriminatory ability of the typical consumer to whom it is directed, as well as social, cultural and linguistic factors. For example, when judging communications addressed to children, their natural credulity and inexperience should always be taken into account. Consumers in general are assumed to have a reasonable degree of experience, knowledge and sound judgment, and to be reasonably observant and prudent. Professional or otherwise qualified groups are presumed to have an appropriate level of specialised knowledge and expertise in their field of operations.

**Implementation**

The Code and the principles enshrined in it should be adopted and implemented, nation­ally and internationally, by the relevant local, national or regional self-regulatory bodies. The Code should also be applied, where appropriate, by all organisations, companies and individuals involved at all stages in the marketing communication process.

Communications practitioners or advertising agencies, publishers, media-owners, contractors and other participants in the marketing eco-system, such as market influencers, bloggers, vloggers, affiliate networks, data analytics and ad tech companies as well as those responsible for preparing algorithms for marketing communications should be familiar with the Code and with other relevant local self-regulatory guidelines on advertising and other marketing communications, and should familiarize themselves with decisions taken by the appropriate self-regulatory body. Upheld or partially upheld decisions may involve modifying or withdrawing the marketing communication concerned and the decision being published. The self-regulatory bodies should ensure an appropriate means exists for consumers to make a complaint and that consumers can readily be aware of it and use it easily.

Further details regarding implementation of the Code by companies and other bodies can be found in the Implementation Guide for the ICC Marketing Codes5.

The ICC Code and its principles are generally reflected in the advertising and marketing communications codes of self-regulatory organisations across the world. Complaints under these codes should be made to the relevant self-regulatory organisations.

The ICC regularly reviews the interpretation of the ICC Code and principles with regard to specific techniques, technologies or products and issues, where appropriate, interpretive statements, guidance or frameworks.

Requests for interpretation of the principles contained in this Code may be submitted under specific circumstances to the ICC Commission on Marketing and Advertising[[4]](#footnote-5).

**General Provisions - Articles**

**Article 1 – Basic principles**

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

All marketing communications should be prepared with a due sense of social and profes­sional responsibility and should conform to the principles of fair competition, as generally accepted in business.

No communication should be such as to impair public trust and confidence in marketing or commerce as such.

**Article 2 – Social responsibility and environmental behaviour**

Marketing communications should respect human and animal dignity and should not incite or con­done any form of discrimination, including that based upon ethnic or national origin, religion, gender, ´status, age, disability, or sexual orientation. Marketers should be mindful of diversity and inclusion[[5]](#footnote-6) and show consideration for the adverse impacts of stereotyping and objectification.

Marketing communications should not without justifiable reason play on fear or exploit misfortune or suffering.

Marketing communications should not appear to condone or incite violent, unlawful, or anti-social behaviour.

Marketing communications should not appear to encourage or condone irresponsible use or harmful behaviour.

Marketing communications should not play on superstition.

Marketing communications should not appear to condone or encourage actions which contravene the law, self-regulatory codes or generally accepted standards concerning climate change, sustainable and environ­mentally responsible behaviour.

They should respect the principles set out in chapter D, on Environmental Claims in Marketing Communications and be mindful of the ICC Framework for responsible environmental marketing.

**Article 3 – Decency**

Marketing communications should not contain materials, statements or audio or visual treatments which offend standards of decency currently prevailing in the country and culture concerned.

Marketing communications should not promote the spread of disinformation or hate speech.

**Article 4 – Honesty**

Marketing communications should be so framed as not to abuse the trust of consumers or exploit their lack of experience or knowledge.

Relevant factors likely to affect consumers’ decisions should be communicated in such a way and at such a time that consumers can take them into account. Regarding the use of so-called high-pressure tactics, see Article C5.

Marketing communications should not abuse the trust of consumers by the use of commercial practices such as clickbait[[6]](#footnote-7)

**Article 5 – Truthfulness**

Marketing communications should be truthful and not misleading.

Marketing communications should not contain any materials, statement, claim or audio or visual treatment which, directly or by implication, omission, ambiguity or exaggeration, is likely to mislead the consumer, in particular, but not exclusively, with regard to:

* characteristics of the product which are material, i.e., likely to influence the consumer’s choice, such as: nature, composition, method and date of manufacture, range of use, efficiency and performance, quantity, commercial or geographical origin or environmental, social or economic impact
* the value of the product and the total price to be paid by the consumer.
* terms for the delivery, provision, exchange, return, repair and maintenance
* terms of guarantee
* the full provision, activation or automatic renewal of a subscription or service, sponsorship, representation or other arrangement with a brand[[7]](#footnote-8)
* copyright and industrial property rights such as patents, trademarks, designs and models and trade names
* audiovisual materials such as photos, videos, sounds or other illustrations that are likely to mislead the consumer with regard to a product’s characteristics, performance, quality and effects to be expected, should not be used, including where these have been altered or enhanced (e.g., AI generated or by so-called retouching).
* compliance with standards or any other use of labels, logos or symbols
* official recognition or approval, awards such as medals, prizes, and diplomas
* sponsorship, agreement or cooperation with a particular company or brand
* the extent of benefits for charitable causes
* respect of human rights or sustainable behaviour

**Article 6 – Substantiation**

Claims relating to verifiable facts in marketing communications should be capable of substantiation by the marketer. Claims that state or imply that a particular level or type of substantiation exists should have at least the level of substantiation advertised. Substantiation should be available so that evidence can be produced without delay and upon request to the self-regulatory organisations responsible for the implementation of the Code. The standard of proof required depends i.e. on the type of claim, the product, and the consequences of a false claim.

Substantiation should be based on documentation, tests or other factual evidence that is valid, reliable and sufficiently precise to support the claim. In the absence of required substantiation the claim should be regarded as misleading.

**Article 7 – Identification and transparency**

Marketing communications should be clearly distinguishable as such, whatever their form and whatever the medium used, to enable the consumer to clearly differentiate between marketing and non-marketing content. When an advertisement, including so-called “native advertising”, appears in a medium containing news or editorial matter, or when it pertains to an influencer’s own brand/product, it should be so presented that it is readi­ly and immediately recognisable as an advertisement and where appropriate, labelled as such.

The true commercial purpose of marketing communications should be transparent and not misrepresent their true commercial purpose. This is especially important in relation to channels with mixed content. Hence, a communication promoting the sale of a product or the contracting of a service should not be disguised, for example as news, editorial matter, market research, consumer surveys, consumer reviews, genuine opinions of experts, public figures, or celebrities, user-generated content, private blogs, private postings on social media or independent reviews etc.

**Article 8 – Identity of the marketer**

The identity of the marketer should be transparent. Marketing communications should, where appropriate, include contact information to enable the consumer to get in touch with the marketer without difficulty.

The above does not apply to communications with the sole purpose of attracting attention to communication activities to follow (e.g., so-called “teaser advertisements”).

**Article 9 – Use of technical/scientific data and terminology**

Marketing communications should not:

* misuse technical data, e.g. research results or quotations from technical and scientific publications
* present statistics in such a way as to exaggerate the validity of a product claim
* use scientific terminology or vocabulary in such a way as falsely to suggest that a product claim has scientific validity, or misuse any label, symbol, logo, or seal to that effect.

**Article 10 –** **Use of “free”**

The term “free”, e.g., “free gift” “free trial” or “free offer”, should be used only:

* where the offer involves no obligation whatsoever, or
* where the only obligation is to pay the delivery costs which should not exceed the cost estimated to be incurred by the marketer, or
* in conjunction with the purchase of another product, provided the price of that product has not been increased to cover all or part of the cost of the offer.

Where free trial, free subscription and similar offers, e.g., an introduction at reduced price, convert to paid transactions at the end of the period, the terms and conditions of the paid conversion should be clearly, prominently and unambiguously disclosed before the consumer accepts the offer. Likewise, where a product is to be returned by the consumer at the end of the free period it should be made clear at the outset who will bear the cost for that. The procedure for returning the product should be as simple as possible, and any time limit should be clearly disclosed. See also Article C12 Right of withdrawal.

**Article 11 Automatic renewals**

It should be transparent in advertising and marketing materials when products are being offered as an automatic renewal, as opposed to a one-time purchase.

The communication should not be misleading as to how the mechanism works or its consequences. The terms of renewal should be easily accessible for consumers before making any purchase.[[8]](#footnote-9) Where an automatic renewal begins with a free trial or other introductory offer Article 10 applies.

**Article 12 Use of “guarantee”**

Marketing communications should not state or imply that a “guarantee”, “warranty” or other expression having substantially the same meaning, offers the consumer rights additional to those provided by law when it does not. The terms of any guarantee or warranty, including the name and address of the guarantor, should be easily available to the consumer and limitations on consumer rights or remedies, where permitted by law, should be clear and conspicuous.

**Article 13 – Comparisons**

Marketing communications containing comparisons should be so designed that the comparison is not likely to mislead and should comply with the principles of fair competition. Points of comparison should be based on facts which can be substantiated and should not be unfairly selected. Product or price advantages that are demonstrable per se should not be exaggerated or overdramatized.

**Article 14 – Exploitation of goodwill**

Marketing communications should not make unjustifiable use of the name, initials, logo and/or trademarks of another firm, company or institution. Marketing communications should not in any way take undue advantage of another firm’s, individual’s or institution’s goodwill in its name, brands or other intellectual property, or take advantage of the good­will earned by other marketing campaigns without prior consent.

**Article 15 – Imitation**

Marketing communications should not imitate those of another marketer in any way likely to mislead or confuse the consumer, for example through the general layout, text, slogan, visual treatment, music or sound effects.

Where a marketer has established a distinctive marketing communications campaign in one or more countries, other marketers should not imitate that campaign in other countries where the marketer who originated the campaign may operate, thereby prevent­ing the extension of the campaign to those countries within a reasonable period of time.

**Article 16 – Denigration**

Marketing communications should not denigrate any person or group of persons, firm, organization, industrial or commercial activity, profession or product, or seek to bring it or them into public contempt or ridicule.

**Article 17 – Testimonials**

Marketing communications should not contain or refer to any testimonial, endorsement or supportive documentation unless it is genuine, verifiable and relevant. Testimonials or endorsements which have become obsolete or misleading through the passage of time should not be used. The sponsored nature of an endorsement or testimonial should be made clear through an appropriate disclosure if the form and format of the communication would not otherwise be immediately understood to constitute a sponsored message. Due care should be taken when using celebrities and influencers with regard to the provisions below on children and teens.

**Article 18- Influencer marketing**

***18.1 General Principles***

All influencer marketing communications should be designed and presented in such a way that it is immediately identifiable as such. Identification should be appropriate to the medium and message. Influencers should ensure the content is properly presented as marketing communications in accordance with the principles of identification and transparency (see Article 7).

Product or company related content uploaded by influencers typically constitutes a marketing communication if the marketer compensated the influencer either via payment or through other arrangements, regardless of whether these considerations arise from a formal contract or any other agreement. The level of content control by the marketer is usually indicative of whether there is clear commercial purpose, and hence a marketing communication, or not.

Each time the communication is shared, the connection between the marketer and the influencer should be transparent. Affiliate links to products on external third-party websites should be disclosed as such and their commercial nature transparent. Likewise, when influencers create content for their own brands or products, or use affiliate links in their content, such content is marketing communications, and this should be immediately clear from the context or the content.

Identification disclosures should be prominent, clear, easily legible and appear in close proximity to the commercial message where they are unlikely to be overlooked by consumers. Disclosures should not be obscured by other content. A disclosure on websites, in the terms and conditions at the end of a piece of content, or in the ‘see more’ section is not sufficient. In the case of mixed content the marketing communication element should be made clearly distinguishable as such, and its commercial nature should be transparent.

Influencers should not create social media posts or other messages alleging the content is sponsored by a business, when they have no agreement with the brand. Such false statements should be regarded as marketing communications promoting the influencer’s own activity or brand, and hence as misleading (see Article 5).

***18.2 Use of Kidfluencers***

There is a special responsibility for children and teens, see Article 21.

Marketers should observe the following principles in relation to the use of kidfluencers (see Definitions):

1. Consent and parental involvement: All marketing communications featuring kidfluencers, including in the form pf avatars or hybrid representation, should have the explicit consent of the child/teen and their parents or guardians for their child’s/teen’s involvement.
2. Recognisability: Kidfluencer marketing communications directed to children or teens should be recognizable for that specific target group
3. Disclosure: Any marketing communications featuring kidfluencers should clearly disclose the connection to the marketer, including if relevant, that the kidfluencer is being paid or receiving compensation. Disclosures should match the comprehension of the actual target group.
4. Protecting privacy: Marketers should take due care to help ensure that kidfluencers’ privacy is protected, which may include avoiding sharing their full name, address, or other personally identifying information. Additionally, marketers should carefully consider the types of content a kidfluencer is requested to share online to ensure it does not reveal too much personal information.
5. Age-appropriate content: All marketing communications featuring kidfluencers should be age-appropriate and free from inappropriate products, language, themes, or behaviour.

**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; 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 organization involved.

**Article 20 – Safety and health**

Marketing communications should not, without justification on educational or social grounds, contain any visual portrayal or any description of potentially dangerous practices, or situations which show a disregard for safety or health, as defined by local national standards. Instructions for use should include appropriate safety warnings and, where necessary, disclaimers. Children should be shown to be under adult supervision whenever a product or an activity involves a safety and/or health risk.

Information provided with the product should include proper directions for use and full in­structions covering health and safety aspects whenever necessary. Such health and safety warnings should be made clear by the use of pictures, sound, text or a combination of these.

**Article 21 – Children and teens**

***21.1 General Principles***

Special care should be taken in marketing communications directed to or featuring children or teens. The following rules should be applied having regard, in particular, to the age and other characteristics of the actual target group.

* Marketing communications should not undermine positive social behaviour, lifestyles and attitudes.
* Marketing communications should not exploit the natural credulity of children, or the inexperience of teens.
* Marketing communications directed to children or teens should be clearly distinguishable to them as such.
* Marketing communications should not contain any statement or visual treatment that could have the effect of harming children or teens mentally, morally or physically.
* Marketing communications should not undermine the authority, responsibility judgement or tastes of parents, having regard do relevant social and cultural values
* Re personal data collected from children or teens, see Article 24.4.
* Products which are illegal for children or teens to purchase or are unsuitable for them should not be advertised or otherwise promoted in media and platforms targeted to them.
* Marketing communications directed to children or teens should not be inserted in media and games where the editorial matter is unsuitable for them.
* Children or teens should not be encouraged to advertise or promote a product themselves via their own social media channels, in exchange for a reward.

***21.2*** ***Exploitation of inexperience and credulity***

Marketing communications should not exploit the natural credulity of children or the inexperience of teens with particular regard to the following areas:

1. When demonstrating a product’s performance and use, marketing communications should not

1. minimise the degree of skill or understate the age level generally required to assemble, activate or operate products or otherwise achieve the advertised effects or result.
2. exaggerate the true size, value, nature, durability and performance of the product
3. fail to disclose data about the need for additional purchases, such as accessories, or individual items in a collection or series, required to produce the result shown or described
4. use language or terms to disclose a marketing communication which are unrecognizable to a young target group.  In case disclosures are used, these should match the comprehension of the actual target group.

2. While the use of fantasy is appropriate for younger as well as older children or teens, it should not make it difficult for them to distinguish between reality, concrete attributes of the product and fantasy.

3. Marketing communications directed to children or teens should be clearly distinguishable to them as such. Marketers, platforms and publishers are encouraged to continually develop the technical means and tools to distinguish commercial content and avoid unsuitable commercial content being directed at children and teens.

***21.3*** ***Avoidance of harm***

Marketing communications should not contain any statement or visual treatment that could have the effect of harming children or teens mentally, morally or physically.

Children and teens

* should not be portrayed in unsafe situations or engaging in actions harmful to themselves or others,
* should not be encouraged to engage in potentially hazardous activities or inappropriate behaviour in light of the expected physical and mental capabilities of the target demographic.

***21.4*** ***Social values***

Marketing communications should not suggest that possession or use of the promoted product will give a child or teen physical, psychological or social advantages over other children or teens, or that not possessing the product will have the opposite effect.

Marketing communications should not undermine the authority, responsibility, judgment or tastes of parents or guardians, having regard to relevant social and cultural values.

Marketing communications should not include any direct appeal to children or teens to persuade their parents or other adults to buy products for them.

Prices should not be presented in such a way as to lead children to an unrealistic perception of the cost or value of the product, for example by minimising them. Marketing communications should not imply that the product being promoted is immedi­ately within the reach of every family budget.

Marketing communications which invite children and teens to contact the marketer should encourage them to obtain the permission of a parent or other appropriate adult if any cost, including that of a communication, is involved.

***21.5 Other rules on marketing communication to children and teens***

For rules on kidfluencers see article 18.2

For rules on data protection relating specifically to children’s personal data see article 22.4

For other specific ICC rules on marketing communications with regard to children and teens see, inter alia:

* with respect to data driven marketing and digital marketing communications see chapter C, article C7
* within the context of food and non-alcoholic beverages see the ICC Framework for responsible food and beverage marketing communication
* within the context of alcoholic beverages see the ICC Framework for Responsible Marketing Communications of Alcohol

**Article 22- Data protection and privacy**

When collecting personal data from individuals, care should be taken to respect and protect their privacy by complying with relevant rules and regulations.

***22.1 Transparency of data collection***

When personal data is collected from individuals, it is essential to provide them with timely, easily accessible and clear information about:

* the identity of the data controller, if it is not the same as the controller.
* the purpose of the personal data processing activities
* any intention to share the data to a third party for that third party’s independent purposes.
* their rights over their personal data and how they can exercise these rights.
* the sources of the data when not directly collected from the individual.
* the costs and processes that impact individuals.
* any other information required under the applicable data protection law.

It is best to inform the individual at the time of collection; when it is not possible to do so this should be done as soon as possible thereafter.

***22.2 Use of data***

Personal data should be:

* collected for specified and legitimate purposes and used only for what is necessary to fulfil the purposes specified or other uses compatible with those purposes
* adequate, relevant and not excessive in relation to the purpose for which they are collected and/or further processed
* accurate and kept up to date
* preserved for no longer than is required for the purpose for which the data were collected or further processed

***22.3 Security of processing***

* Adequate industry accepted technical and procedural safeguards should be put in place to protect personal data from unauthorized access, modification, misuse, disclosure, or loss. Care should be taken to
* implement written information security policies and review them periodically.
* conduct regular audits and testing of technical systems that house/manage/sort personal information.
* use, whenever possible, encryption and/or pseudonymization to safeguard the individual’s personal data, especially during transfer or storage in a mobile/portable device.
* adopt a risk-based approach when deciding the security measures to implement, ensuring that potentially sensitive personal information has the requisite level of security and further limitations on access.
* promptly notify significant security breaches to enforcement or other relevant authorities as well as affected individuals (when appropriate) and ensure that personal information is re-secured and protected following a loss or unauthorized access or disclosure.

***22.4 Children’s personal data***

* When personal data is collected from individuals known or reasonably believed to be children, guidance should be provided to parents or legal guardians about protecting children’s privacy if feasible.
* Children should be encouraged to obtain a parent’s or responsible adult’s consent before providing personal data via digital interactive media, and reasonable steps should be taken to check that such permission has been given.
* Only as much personal data should be collected as is necessary to enable the child to engage in the featured activity. A parent or legal guardian should be notified and consent obtained where required.
* Personal data collected from children should not be used to address marketing communications to them, the children’s parents or other family members without the consent of the parent.
* Personal data about individuals known or reasonably believed to be children should only be disclosed to third parties after obtaining consent from a parent or legal guardian or where disclosure is authorised by law. Third parties do not include agents or others who provide technical or operational support to the marketer and who do not use or disclose children’s personal data for any other purpose.
* Marketers should not profile children or teens for advertising purposes.
* For additional rules specific to marketing communications to children using digital interactive media, see chapter C, article C7.

***22.5 Privacy policy***

Those who collect personal data in connection with marketing communication activities should have a privacy policy, the terms of which should be readily available to consumers and should provide a clear statement of any collection or processing of data that is taking place, whether it is self-evident or not.

In jurisdictions where no privacy legislation currently exists, it is recommended that privacy principles such as those of the ICC Privacy Toolkit3 are adopted and implemented.

***22.6 Rights of the consumer***

Appropriate measures should be taken to ensure that consumers understand their rights to, e.g.:

* opt out of direct marketing lists
* opt out of interest-based advertising
* sign on to general direct preference services
* require that their personal data not be transferred or made available to third parties for their marketing purposes; and access, rectify, update and suppress their personal data which are held about them according to local law.

Due care should be taken to ensure that individuals are provided with an easy way to express their preferences with respect to receiving marketing communications. Where a consumer has clearly expressed a wish not to receive marketing communications using a specific medium, this wish should be respected. Appropriate measures should be put in place to help consumers understand that access to content may be made conditional on the use of data. For additional rules specific to the use of digital interactive media and consumer rights, see chapter C, article C9.

***22.7 Cross-border transactions***

Particular care should be taken to maintain the data protection rights of the consumer when personal data are transferred from the country in which they are collected to another country.

When data processing is conducted in another country, reasonable steps should be taken to ensure that adequate security measures are in place and that the data protection principles set out in this code are respected. The use of the ICC model clauses covering agreements between the originator of the marketing list and the processor or user in another country is recommended.

**Article 23 – 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 fulfill 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 24 – Unsolicited products and undisclosed costs**

Marketing communications associated with the practice of sending unsolicited products to consumers who are then asked for payment (inertia selling), including statements or suggestions that recipients are required to accept and pay for such products, should not be used.

Marketing communications which solicit a response constituting an order for which pay­ment will be required (e.g., an entry in a publication) should make this unambiguously clear.

Marketing communications soliciting orders should not be presented in a form which might be mistaken for an invoice, or otherwise falsely suggest that payment is due.

For specific rules on respecting consumers’ wishes, see chapter C, article C8.

**Article 26– Responsibility**

These general rules on responsibility are technology neutral and apply to all forms of marketing communications. Rules on responsibility with special relevance to certain activities or media can be found in the chapters devoted to those activities and media.

Marketers have overall responsibility for the marketing communications of their products.§

The responsibility to observe the Code also applies to other participants in the marketing eco-system, including market influencers and influencer networks, bloggers, vloggers, affiliate networks, app developers, marketplaces, those responsible for designing online choice architectures (web and systems design), data analytics and ad tech companies as well as those responsible for preparing algorithms, the use of artificial intelligence and programming the machines/software and/or owning or controlling the product thereof for marketing communications purposes.

Agencies or other marketing practitioners should exercise due care and diligence in the preparation of marketing communications and should operate in such a way as to enable marketers to fulfill their responsibilities.

Publishers, media owners, platforms, contractors or other parties, who publish, transmit, deliver or distribute mar­keting communications, should exercise due care in the acceptance of them and their presentation to the public. Marketing communications known to contravene the Code should not be accepted, and if already published be removed without delay, and should not be allowed to appear again.

Individuals, employed by any firm, company or institution falling into any of the above catego­ries and who take part in the planning, creation, publication or transmission of a marketing communication are responsible, to an extent commensurate with their respective activities, for ensuring that the rules of the Code are observed and should act accordingly.

Whatever the nature of the activity, medium or technology, responsibility is shared by all parties concerned, commensurate with their respective ownership and role in the process and within the limits of their respective functions.

The Code applies to the marketing communication in its entire content and form, including testimonials, remunerated posts and statement and audio or visual material originating from other sources and online choice architecture with impacts on ad content. 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.

**Article 27 – Effect of subsequent redress for contravention**

Subsequent correction and/or appropriate redress for a contravention of the Code, by the party responsible, is desirable but does not excuse the contravention.

**Article 28– Respect for self-regulatory decisions**

No marketer, communications practitioner or advertising agency, influencer, publisher, media owner, ad tech companies, platforms, intermediaries or contractor should be party to the publication or distribution of an advertisement or other marketing communication which has been found unacceptable by the relevant self-regulatory body.

All parties in the marketing eco-system should include in their contracts and other agreements pertaining to advertising and other marketing communication, a statement committing the signatories to adhere to the applicable laws and self-regulatory rules and to respect decisions and rulings made by the appropriate self-regulatory body and support its operation.

Where no effective self-regulatory codes and arrangements are in place in a particular country, all parties should include in their contracts and other agreements pertaining to advertising and marketing communication a statement committing the signatories to respect the current ICC Code.

1. [↑](#footnote-ref-2)
2. Ad tech companies provide i.a. technical tools and solutions for the delivery or placement of digital advertising.’  The ICC Toolkit: Marketing and Advertising to Children, provides more details regarding research on age 12 as a reference age for the application of rules on marketing, advertising and data collection involving children. Local laws may define “children” differently. [↑](#footnote-ref-3)
3. ICC/ESOMAR International Code on Market, Opinion and Social Research and Data Analytics [↑](#footnote-ref-4)
4. Annex 1: Terms of Reference [↑](#footnote-ref-5)
5. See ICC guidance on diversity and inclusion, 2023 [↑](#footnote-ref-6)
6. the practice of writing sensationalized or misleading headlines in order to attract clicks on a piece of content. It often relies on exaggerating claims or leaving out key information in order to encourage traffic. [↑](#footnote-ref-7)
7. See ICC Principles on Automatic Subscription Renewals [↑](#footnote-ref-8)
8. See ICC Principles on Automatic Subscription Renewals. [↑](#footnote-ref-9)