***NC V3 CRTF V4 DRAFT***

**ICC Advertising and Marketing Communications Code 2024**

**INTRODUCTION AND GENERAL PROVISIONS**

**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 millions 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.

Throughout the years, the ICC Code has functioned as a foundation for self-regulatory codes, frameworks, and structures across the globe. These systems have fostered consumer trust by ensuring advertising that is honest, legal, decent, and truthful, while also providing swift and straightforward remedies for any breaches.

The Code has supported both businesses and society by offering ethical guidelines that establish a fair competitive environment and minimize the necessity for legislative or regulatory intervention. In response to emerging practices and technologies, the ICC has continuously updated, clarified, and expanded the Code's scope to ensure its ongoing relevance and effectiveness. This latest revision accommodates further behavioural shifts resulting from the digital revolution and continues to set a gold standard for modern self-regulation.

We have consulted widely on the revision of the code and believe this 2024 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. We encourage companies and business organisations to support the application of the code to ensure responsible marketing communications which are to the benefit of all.

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1. About this Code

**Responsible advertising and marketing communications**

Advertising and other marketing communication means are essential tools for conveying information between businesses and consumers. They contribute to the establishment of efficient markets on both national and global levels, fostering economic growth and offering significant advantages for consumers, companies, and society as a whole.

Responsible advertising and marketing communications, grounded in widely endorsed self-regulatory codes of conduct, demonstrate the business community's commitment to fulfilling its social and environmental responsibilities. The core value of self-regulation is its capacity to build, strengthen, and maintain consumer trust and confidence in the business sector and, consequently, in the marketplace itself. In the context of an increasingly intertwined global economy, it serves the purpose of avoiding fragmented regulations. Self-regulation also allows business to respond more swiftly to emerging issues and changing circumstances. Moreover, effective self-regulation serves as a means to safeguard individual company's goodwill and reputation. It can also alleviate the burden on governmental regulatory bodies.

The first ICC advertising code was issued in 1937 to provide a globally acceptable frame­work for responsible creativity and communication. Today, the Code continues to serve as the worldwide benchmark for standards in advertising and marketing communications. Numerous independent self-regulation systems have successfully implemented the ICC Code, which has been consistently updated and improved to accommodate shifts in society, technology, and the economy. 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.

This Code embodies ICC’s strategic focus on enabling global trade and fair competition.

* + Promoting access to justice, integrity and respect for the rule of law
	+ Accelerating sustainability and climate action
	+ Shaping an open, trusted and interoperable digital economy and
	+ Strengthening multilateral cooperation.

It particularly emphases advocating for the rule of law and robust governance, by:

* Crafting a transparent and consistent international regulatory environment that enables companies to operate sustainably and responsibly.
* developing voluntary rules and self-regulatory tools to assist companies in adhering to legal obligations and fostering good business practices.
* contributing to the establishment of a cohesive international regulatory framework for businesses worldwide.

**11th 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 continued to be important for companies in preserving their ‘license to operate’.

For this reason, the 11th 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 by addressing the role of people, organisations, software and machines.

Significant changes include:

* Greater clarity in the scope and application to different forms of marketing communications
* The inclusion of coverage for the use of algorithms and AI in preparing and delivering marketing communications
* Taking account of recent social and technological developments and the inclusion of specific provisions from chapters which are widely applicable to all marketing communications.
* Encouraging mindfulness regarding diversity and avoiding objectification and stereotypes
* New provisions concerning anti-corruption and not inciting or condoning hate speech and disinformation
* Improved indications regarding claims (including aspirational claims) and substantiation.
* Addressing influencer marketing and the responsibility of influencers and creators
* Updated provisions regarding environmental advertising and environmental aspects of sustainability
* Clearer rules in a separate chapter regarding children, teens and minors

This Code revision has been informed by the latest industry rules and legal developments 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.

**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 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 marketing communication is legal does not necessarily mean it is also ethically acceptable or appropriate. Marketers and other parties thus need to make sure their marketing communications activities observe both applicable laws and regulations in a market, as well as the relevant provisions of the Code.

**Purpose of the Code**

The primary purpose of the ICC Code is to serve as a self-regulation tool for marketing communications, but it can also be beneficial for non-commercial advertising and communication. Courts may reference the document within the framework of applicable legislation. ICC recommends its global adoption and use.

The Code is intended to achieve the following objectives:

* **Responsibility:** to outline standards for responsible advertising and marketing communications globally.
* **Confidence**: to enhance overall public confidence in marketing communications.
* **Respect:** to respect privacy and consumer preferences.
* **Special responsibility:** to ensure special responsibility regarding marketing communications and children and teens.
* **Freedom of Expression & Consumer Protection:** 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) and to provide effective practical and flexible solutions to consumer protection issues.
* **Regulation:** to minimise the need for detailed governmental and/or inter-governmental legislation or regulations.

**Code Structure and interaction with related codes and guidance**

The ICC Code is constructed as an integrated system of ethical rules.

There are **General Definitions and Provisions** 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 subsequent chapters:

* Chapter A – Children and Teens
* Chapter B – Sales Promotion
* Chapter C – Sponsorship
* Chapter D – Data Driven, Direct Marketing and Digital Marketing Communications
* Chapter E – Environmental Claims in Marketing Communications
* Chapter A – Sales Promotion
* Chapter B – Sponsorship
* Chapter C – Data Driven, Direct Marketing and Digital Marketing Communications
* Chapter D – Environmental Claims in Marketing Communications
* Chapter E- Children and Teens

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

Current codes and frameworks are:

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

A brief summary of relevant codes and frameworks is provided at the end of this code, see Annex II.

The ICC has also produced several toolkits, principles and guidance notes in the area of marketing communications including on marketing and advertising to children, diversity, native advertising and responsible deployment of electronic codes.

Full details and links to the texts of the ICC marketing communications code, principles, guidance notes, toolkits and frameworks can be found on the I*CC web page* **[www.iccwbo.org/MarketingCode](http://www.iccwbo.org/MarketingCode).** The web page includes official locally translated versions of the Code, additional tools and resources, and access to online training courses.

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

Before engaging in cross-border marketing communications, marketers need to consider all applicable rules. There are two guiding principles: either the rules of the country where the message or activity originates are applied, or those of the country (or countries) receiving it. However, the question of jurisdiction, namely determining which country (state or region) holds legal authority and what national laws would be applicable in each case, is a complex 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 and laws.

1. Scope and Application of the Code

1. **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.

**Identifying Primary Purpose:**

It may be necessary to identify the primary purpose of a communication to determine if it falls within the scope of a marketing communication.

**Illustrative examples where examination reveals whether the code is applicable:**

In addition to the typical marketing claims related to products as in e.g. brand advertising which **are covered** by the code, the following non-exhaustive list of examples **are also** **covered:**

* Claims made in marketing communications, for example regarding Corporate Social Responsibility (CSR) programmes including where a sponsorship is included in such programmes, sustainability, environmental, economic, and social conditions and rights.
* Product or company related content shared by influencers including for their own brands or products or using affiliated links. An appreciable level of content control by the marketer usually indicates the presence of a clear commercial purpose, and consequently a marketing communication.
* 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 contexts like games, posts on social media platforms, or personal communications.
* Any claim on the packing, including environmental claims about itself, like “X % recycled material” as well as use of private labels or marks.
* Any promotion on or in packaging.
* Any legible claim on packing or a label, shown in an ad, website or other commercial material or context.

**Areas not covered**

The Code does not universally apply to all forms of corporate communication. For example, it may not cover corporate public affairs messaging in press releases and media statements, information contained within annual reports, or details mandated for product labels.

The following non-exhaustive list of areas **are not covered by the code**:

* 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 or games and political campaigns.
* Statements on matters of public policy.
* Physical product packaging as such, insofar as it does not constitute a marketing communication by itself.
* Labelling and other information required by law.
* Corporate Social Responsibility (CSR) programmes, excluding associated claims and sponsorship, which are covered by the Code.

1. **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 organizational 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. 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.

1. **Interpretation**

The ICC Code is to be interpreted in the spirit as well as to the letter.

Communications should be evaluated based on their likely impact on the **reasonable consumer**, having regard to the characteristics of the targeted group and the medium used. Therefore, the meaning of a claim should be established on the basis of how it is likely to be perceived by the consumer in the overall context of the communication.

This means that marketing communications should be assessed in light of the recipient’s knowledge, experience and discernment abilities of the typical consumer to whom it is directed, as well as social, cultural and linguistic factors. For instance, when assessing communications addressed to children, their natural credulity and inexperience should always be taken into account. Consumers are generally assumed to have a certain degree of experience, knowledge and sound judgment, and to be reasonably observant and prudent. Professional or otherwise qualified groups are presumed to have a suitable degree of specialised knowledge and expertise in their field of operations.

1. **Implementation**

The implementation of the code is intended for both self-regulatory bodies and organisations, companies and individuals involved in marketing communications.

It is a key reference point for self-regulatory bodies set up for the purpose of applying and interpreting self-regulatory codes. The Code and its underlying principles should be adopted and implemented, nationally and internationally, by the relevant local, national, or regional self-regulatory bodies.

The Code should be adhered to, where appropriate, by all organisations, companies and individuals involved in the marketing communication process and marketing eco-system as set out in the section on responsibility above. They should be familiar with the Code and with other relevant local self-regulatory guidelines on advertising and marketing communications.

They should also familiarize themselves with decisions made by the appropriate self-regulatory body. If a decision is upheld or partially upheld, it may involve modifying or withdrawing the marketing communication concerned followed by the publishing of the decision. It is essential to provide consumers with an appropriate means for filing complaints and ensuring that consumers are aware of it and use it easily. Further details regarding implementation of and compliance with the Code by companies and other groups and associations 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 worldwide. Complaints related to these codes should be directed to the relevant self-regulatory organisations.

Requests for interpretation of the principles contained in this Code may be submitted under specific circumstances to the ICC Commission on Marketing and Advertising for possible consideration by an ICC code interpretation panel. Further information can be found here (insert link) about this and the terms of reference of the ICC code interpretation panel.

1. **Code review**

The ICC is committed to ensure this code remains relevant in a dynamic legal, social and technological environment. It will regularly review the application of this ICC Code and its principles regarding specific techniques, technologies, products and issues. Where appropriate it will issue further interpretive statements, guidance or frameworks.

1. General Definitions in the Code

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, typically in return for payment or other valuable consideration.
* ***“affiliate link***” is a URL that contains a unique identifier (affiliate ID or code) assigned to an individual or entity known as an affiliate, used in affiliate marketing programs to track the traffic and sales generated by the affiliate. When someone clicks on an affiliate link and makes a purchase or completes a desired action, the affiliate earns a commission or a predetermined referral fee.
* “***children****”* refers to consumers aged 12 years and under[[1]](#footnote-2)
* ***'claim’*** means any statement made by marketers or on their behalf in the context of a marketing communication about a product, a brand, or the business activity, objectives and aspirations of a person, a company or some other organization. Claims can relate to product characteristics or performance, price and economic benefits, health effects or environmental impact, and more.  A claim can take the form of a direct statement or by implication. Any means capable of conveying a message can be used to make a claim – text, image, colour, sound in whatever form and combination, and in any media. Claims can also be contained in logos, private labels, signs and other marks.
* ***“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
* “***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 behaviour.
* “***digital interactive media***” refers to the full range of media, platforms and tracking technologies, including mobile, video, addressable TV, social media, Internet of Things (IoT), wearables, and cross-device tracking, AI and associated algorithms
* “***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).
* ***“influencers”*** refers to individuals, organizations or machine-created or controlled representations i.e. avatars, who mainly use social media platforms to communicate and interact with their audiences including followers. In that context they may shape audience attitudes for commercial purposes, based on brand partnerships. However, they can also act outside any such arrangement, e.g. when promoting their own brand and products. In that case they are considered *marketers* (see definition below). Those who match this definition are covered by it even if they appear under a different name, such as creator or brand ambassador. It also includes those with a relatively small number of followers.
* ***“Influencer marketing communications”*** means marketing communications conveyed by an influencer.
* *““****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
* ***marketing communications****”* includes advertising as well as other techniques, such as promotions, sponsorships, direct marketing, 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. Likewise, when influencers create content for their own brands or products, or use affiliate links in their content, such content is marketing communications.
* “**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.
* *“****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 r
* *“****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 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; as well as facilities, activities and processes. Where appropriate the Code may be applied more widely, e.g. to concepts.
* ***“research”*** which includes all forms of market, opinion and social research, including data analytics applied for research purposes, means the systematic gathering, analysis and interpretation of information about individuals and organisations. It uses the statistical and/or analytical methods and techniques of the applied social, behavioural, data and other sciences to generate insights and support decision-making by providers of goods and services, governments, non-profit organisations and the general public.
* “***teens****”* means those individuals aged 13 – 17 years.
1. General Provisions on Advertising and Marketing Communications

**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, environmental and profes­sional responsibility and should conform to the principles of fair competition, as generally accepted in business.

No communication should in the content and manner made undermine the public’s trust and confidence in marketing communications.

**Article 2 – Social and environmental responsibility**

Marketing communications should respect human dignity and should not incite or con­done any form of discrimination, including that based upon ethnic or national origin, religion, gender, age, disability, or sexual orientation. Marketers are encouraged to be mindful of diversity and inclusion[[2]](#footnote-3) and seek to avoid stereotypes and objectification[[3]](#footnote-4).

No marketing communication should be associated with corrupt practices [[4]](#footnote-5)of any kind. Marketers should take due account of the ICC Rules on Combating Corruption and other ICC anti-corruption tools available here [insert link].

Marketing communications should not:

* Without justifiable reason, play on fear or exploit misfortune or suffering.
* Appear to condone or incite violent, unlawful, anti-social behaviour or animal abuse.
* Appear to encourage or condone irresponsible use or harmful behaviour.
* 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 anything which offends standards of decency currently prevailing in the country and culture con­cerned and strive to respect social norms and tradition.

Marketing communications should not incite or condone hate speech by using elements associated to it, such as false testimonials or endorsements, conspiracy theories, or other means to circulate harmful content.

**Article 4 – Honesty**

Marketing communications should be structured in a way that does not take advantage of consumer trust or exploit their inexperience or limited understanding.

Relevant factors that can affect consumers’ decisions should be communicated in a manner and at a time that allows them to consider them effectively.

High-pressure marketing tactics which might be construed as harassment or hamper consumer choice, should not be used.

Marketing communications should not abuse the trust of consumers by using deceptive practices or spreading disinformation using elements such as false testimonials or endorsements, conspiracy theories, such as bait and switch or clickbait. Nor should they knowingly support engage in, facilitate or fund illegal activities (see ICC statement on misplaced digital ads).

**Article 5 – Truthfulness**

Marketing communications should be truthful and not misleading.

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.

This applies especially, but is not limited to:

* characteristics of the product which are material, i.e., likely to influence the consumer’s choice, such as the 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, copyright and industrial property rights such as patents, trademarks, designs, models, trade names and other distinguishable marks
* compliance with certification and standards or any other use of quality marks, logos (e.g. environmental, sustainable) or recognition 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

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, quality and effects to be expected, 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).

Communications that reflect specific commitments or goals that are aspirational in nature and not likely to be met until many years in the future, (e.g., carbon negative, climate positive, diversity, equality, well-being etc.), require that the company is able to demonstrate, in concrete terms, that it has a reasonable capacity and methodological approach to meet such a commitment, Qualifiers should be included if elements or impacts will occur in the future.

**Article 6 – Substantiation**

Marketers should have a reasonable basis for making claims relating to verifiable facts at the time the claim is made. Claims that state or imply that a particular level or type of substantiation exists should have at least the level of substantiation advertised. Supporting documentation should be provided promptly upon request to the self-regulatory organizations responsible for the application and enforcement of the Code. The standard of proof required generally depends on factors such as the

type of claim, the product, the consequences of a false claim and the benefits of a truthful claim.

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

Regarding substantiation of environmental claims, see Article D1.

**Article 7 – Identification and transparency**

Marketing communications, regardless of format or medium, should be easily identifiable, allowing consumers to clearly distinguish between commercial and non-commercial 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.

Marketing communications should be transparent about their true commercial purpose, and not misrepresent it. Hence, a communication promoting the sale of goods, or the contracting of a service should not be disguised, for example as news, editorial matter, market research, consumer surveys, consumer reviews, user-generated content, private blogs, private postings on social media or independent reviews etc.

In the case of mixed content, such as with news or editorial matter or social media, the marketing communication element should be made clearly distinguishable as such, and its commercial nature should be transparent. It should be so presented that it is readily and immediately recognisable as a marketing communication and where appropriate, labelled as such.

**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., “teaser advertisements”).

**Article 9 – Use of technical or 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 claim.
* use scientific terminology or vocabulary in such a way as falsely to suggest that a 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. The procedure for returning the product should be simple, and any time limit should be clearly disclosed. See also Article C14 Right of withdrawal.

**Article 11 – Presentation of the Offer**

The terms and conditions of any offer including the identity of the marketer, full name and address along with information on how to ask questions or lodge complaints should be transparent to consumers. There should be a clear process which leads to the necessary steps to place an order, purchase, conclude a contract or any other commitment. Wherever appropriate, the essential points of the offer should be simply and clearly summarised together in one place. Essential points of the offer may be clearly repeated but should not be scattered throughout an extensive presentation.

Offers should not be presented in a manner that conceals or obfuscates material factors, e.g. price, additional costs, availability or other essential sales conditions, likely to influence consumers’ decisions.

Any image, sound or text which, by its size, volume or any other visual characteristic, is likely to materially reduce or obscure the legibility and clarity of the offer should be avoided. When an offer involves different choices those should be clear and unambiguous, and their consequences easy to understand for consumers.

When the presentation of an offer also features products not included in the offer, or where additional products need to be purchased to enable the consumer to use the product on offer, this should be made clear in the original offer. For offers involving promotional items, see Chapter A: Sales Promotion.

Before making any commitment, consumers should be able to easily access the information needed to understand the exact nature of the product and all conditions of the offer, as well as their rights and how to exert them. Marketing communications inviting consumers to contact the marketer for further information of an offer should be transparent on the cost of communications therefore (see also Article C4)

Where appropriate, the marketer should respond by accepting or rejecting the consumer’s order.

The fulfilment of any obligation arising from the offer should be prompt and efficient.

**Article 12 – Automatic renewals**

Advertising and marketing materials should clearly indicate when products are available as an automatic renewal rather than 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.[[5]](#footnote-6) Where an automatic renewal begins with a free trial or other introductory offer Article 10 applies.

**Article 13 – Use of “guarantee”**

Marketing communications should not state or imply that a “guarantee”, “warranty” or similar terms, provide extra consumer rights additional to those provided by law unless they genuinely do. The terms of any guarantee or warranty, including the guarantor’s name and address, should be easily available to consumers and limitations on consumer rights or remedies, where permitted by law, should be transparent and prominently visible.

**Article 14 – Comparisons**

Marketing communications containing comparisons should be carefully designed so as not to mislead and should comply with the principles of fair competition. Points of comparison should be based on verifiable facts. Product or price advantages that are demonstrable per se should not be exaggerated or overdramatized. Comparisons should be clear whether they are to a competitor’s product or to another version of the same product.

**Article 15 – 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 obtaining prior consent.

**Article 16 – Imitation**

Marketing communications should not imitate another marketer’s work in a manner that is likely to mislead or confuse the consumer. This includes similarities in 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 original marketer might operate. This will consequently prevent­ blocking the expansion of the campaign to those countries within a reasonable period of time.

**Article 17 – 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 18 –** **Testimonials and endorsements; Influencer marketing communications**

**18.1 General Principles**

Marketing communications should not contain or refer to any testimonial, endorsement or supportive documentation unless it is genuine, verifiable and relevant. Testimonials or endorsements, including influencer marketing communications, which have been obsolete or misleading through passage of time should not be used. The sponsored nature of a testimonial or endorsement should be made clear through an appropriate disclosure if the form and format of the communication would not otherwise be understood to constitute a sponsored message.

**18.2 Influencer marketing communications**

All influencer marketing communications should be designed and presented in such a way that it is immediately identifiable as such. This also applies when influencers are promoting their own brands or products. Identification should be appropriate to the medium and message, particularly in the context of social media. Marketers and their influencers, as well as creators, should ensure the content is properly presented as marketing communications in accordance with the principles of identification and transparency (see Article 7).

Content uploaded concerning third parties constitutes a marketing communication only if the influencer has received some form of compensation from the brand, whether financial or through other arrangements and this should be immediately clear from the context or the content

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.

In addition to the provisions in Article 7, identification disclosures should not be obscured by or hidden among other content. General disclosures on websites, in the terms and conditions at the end of a piece of content, buried in a string of hashtags, or in the ‘see more’ section are not sufficient.

Marketers should make sure that influencer marketing communications posted on their behalf include relevant qualifiers or statements to avoid misleading consumers about the standards, qualities, attributes, costs or other features of the product involved.

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).

**18.3 Use of minors**

When the influencer is a minor[[6]](#footnote-7), marketing communications should be based on a contract providing for explicit parental or guardian consent and protecting the minor against any undue exploitation.

Marketers should respect the requirements set out in Chapter X concerning the privacy of children, teens and minors.

Marketing communications should clearly disclose the connection to the marketer, including if relevant, that the minor is receiving economic or other compensation. All content featuring minors should be age-appropriate and free from inappropriate products, language, themes, or behaviour.

Further on the special responsibility for children and teens, see Chapter X.

**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 2****0 – Children and teens**

Special care should be taken in marketing communications directed to or featuring children or teens. Marketing communications should not exploit the natural credulity of children or the lack of

experience of teens and should not strain their sense of loyalty. In directing marketing

communications to children and/or teens, the principles of this Code should be applied with due regard to the age and other characteristics of the actual target group, their differing cognitive abilities, and

developing personal privacy rights independent of parents or guardians.

Marketers should respect standards and laws prohibiting the marketing of products that are subject to age restrictions such as alcoholic beverages, gambling and tobacco to minors [[7]](#footnote-8).

**For further specific rules, see Chapter X – Children and teens.**

**Article 21 – 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 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.

All processing of personal data for the purposes of this code must:

* respect and value the privacy of the individuals’,
* be adequate, relevant and not excessive,
* be clear and transparent with individuals about their personal data collection, use and disclosure practices,
* respect any direct expression of an individual’s preference regarding the use of their personal data for marketing communications including that their personal data may not be transferred or made available to third parties for their marketing purposes.
* implement reasonable technical and procedural safeguards to protect personal data from unauthorised access, modification, misuse, disclosure, or loss.
* ensure that relevant information pertaining to the collection and processing of personal data from children, is communicated in an age-appropriate way to the child and consent to process that information is provided by a parent or legal guardian.

**Article 23 – 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 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 and ad tech companies as well as those responsible for preparing algorithms and the use of artificial intelligence for marketing communications purposes.

The principle of responsibility is further explained under Code Responsibility in section I, Scope and Application of this code.

**Article 25 –** **Correction and redress for contravention of the Code**

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

**Article 26 – Respect for self-regulatory decisions**

No one, programme or machine in the marketing eco-system should be involved in the publication, delivery or distribution of any marketing communications deemed unacceptable by the relevant self-regulatory body. Marketing communications obviously contravening the applicable self-regulatory rules should not be accepted and if already published be removed promptly.

All parties should include a clause in their contracts and other agreements pertaining to marketing communication, 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.

In countries where no effective self-regulatory codes and arrangements exist, contracts and other agreements should include a clause committing signatories to comply with the current ICC Code.

1. 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-2)
2. See ICC guidance on diversity and inclusion, 2023. [↑](#footnote-ref-3)
3. Stereotyping is the practice of referring to or playing on an oversimplified and untrue notion of a particular group, sometimes employing archetypal traits. Objectification means representing people not as persons or individuals but as objects of sexual or other templating character. [↑](#footnote-ref-4)
4. See ICC Rules on Combatting Corruption in which “Corruption” or “Corrupt Practice(s)” include bribery, extortion or solicitation, trading in influence and laundering the proceeds of these practices.  [↑](#footnote-ref-5)
5. See ICC Principles on Automatic Subscription Renewals. Essentially, marketers should obtain consumers’ consent to the material terms of an automatic renewal at the start of the contract. [↑](#footnote-ref-6)
6. The term minors here refers to persons of such age that they, under the applicable law, lack legal capacity to enter into a binding agreement, e.g. an influencer contract with a marketer. [↑](#footnote-ref-7)
7. The term ’minor’ here refers to those below the legal purchase age, i.e., the age at which national legislation permits the purchase or consumption of such restricted products. In countries where purchase age and consumption age are not the same, the higher age applies in relevant markets. [↑](#footnote-ref-8)