



International Chamber of Commerce

The world business organization

Discussion Paper



Prepared by ICC Commission on
Marketing and Advertising

ICC Paper on Code Drafting : maintaining the effectiveness of self-regulation in marketing communications

Contents

- General principles for the creation and revision of ICC Codes
- Formal drafting and revision process
- Obtaining stakeholder input

Commission on Marketing and Advertising Task Force on Code Revision

ICC Paper on Code Drafting : maintaining the effectiveness of self-regulation in marketing communications

Introduction

Advertising and marketing communications are vital means of communicating between marketers and their customers. To assure that there is trust and confidence in commercial communications, the business community strongly supports self-regulation predicated on the principle that advertising and marketing communications must be legal, decent, honest and truthful. To this end, the ICC has a long tradition of developing self-regulatory codes of practice for marketing communications.

ICC may decide to draft new codes or revise existing ones in this area on the basis of suggestions from members of the Marketing and Advertising Commission that have gained sufficient support. The ICC code drafting process is a deliberative one, requiring thoughtful evaluation of events and concerns identified by ICC members and national committees to develop a consensus about issues on which code guidance is needed and the nature of the guidance required for its practical global application. In some instances, guidance is included in a revision to the ICC Code. In others, the ICC members collectively determine that framework guidance, discussion papers or code interpretations are a preferred alternative to code revisions.

In identifying issues that merit action by the ICC, the business community draws on observations and experiences at national level, including changes in technology, new marketing communications vehicles and techniques, academic research, and concerns identified by consumers, regulatory authorities and other stakeholders. The ICC remains committed to a robust code revision process and will seek out information or insights from other stakeholders to inform its efforts where it deems it useful to do so.

1. General principles for the creation and revision of ICC Codes

Certain principles have been established to guide the creation and modification of ICC codes.

- Codes and their revisions should be relevant, authoritative and set global standards.
- Regular review processes should ensure the codes remain timely and up to date, and prioritised in line with changes in the market, consumer concerns, and if appropriate, insights obtained through informal dialogue with stakeholders.
- To ensure that practitioners have had time to use and adjust to the new codes, comprehensive code revisions should generally occur only once every 3 to 4 years. To maintain the flexibility and responsiveness of self-regulation, however, the business community is encouraged to raise discrete issues “off-cycle” for consideration and action as needed by the ICC.
- Finally, all codes should be presented in a simple and user-friendly manner, use clear and consistent terminology, and remain flexible enough for their global application.

In addition, ICC codes should be guided by the broad ethical principles established in the general provisions of the *ICC Consolidated Code on Advertising and Marketing Communication Practice*. In respecting both the principles of fair competition and consumer protection, the rules should maintain consumers’ trust in responsible marketing and advertising.

2. Formal drafting and revision process

Business-driven codes of conduct and self-regulation encourage fair competition and benefit the individual consumer. Periodic review and updates are essential to making sure that the codes are responsive to current marketplace issues. The code revision or drafting process follows certain steps:

- A proposal from an ICC National Committee or one of their members in the Code Revision Task Force initiates the drafting or revision of a code if there is sufficient agreement and members with appropriate expertise willing to do the work. At or before this stage it may be appropriate for those working on the project to request that the ICC reach out to other stakeholders to assure that those working on the revision have an adequate understanding of the issues.
- The Code Revision Task Force consists of a selection of members from the Marketing and Advertising Commission. Where necessary it is reinforced with experts from a specific industry or business sector according to the code or issue being considered. This is especially important with regard to new areas, forms of media or techniques. It has an important role in vetting these proposals and making recommendations to the Marketing & Advertising Commission for its consideration and approval. In the case of code revision, the review may reveal the need to either partially or completely review a code. A draft text is then drawn up.
- Through ICC's comprehensive review process, every national committee is consulted, thus spanning countries from every region of the world, all business sectors and members from large, medium and small businesses. Their comments and suggestions are taken into account and the draft text is adjusted accordingly.
- Appropriate cross-commission consultation within the ICC to ensure consistency with other relevant ICC initiatives e.g E-business, IT and Telecoms, Environment and Energy, Intellectual Property etc.
- The Marketing and Advertising Commission and ICC national committees comment on and approve the final text provided usually by the Code Revision Taskforce.
- The text is sent to the ICC Executive Board for approval. While the Executive Board may delay approval until further changes are made, any modification is made under the leadership of the Commission chair.

3. Obtaining stakeholder input

The *ICC Consolidated Code on Advertising and Marketing Communication Practice* is grounded, first and foremost, on agreement that advertising and marketing communications enhance consumer well-being and economies by allowing consumers to be informed about products and services of value to them. The ICC recognizes that effective and credible codes of marketing communications practice must advance consumer trust, apply to various technologies and techniques used to deliver commercial communications, and be responsive to transnational concerns of consumers, regulators and others.

The code development process in an international business organization such as the ICC is business-driven but does not occur in a vacuum. The ICC process allows national committee members to share reactions to marketing activities that they have received from stakeholders in their regions and to offer insights on recommended best practices that should be incorporated in the ICC Code.

Direct input from outside third parties not active in the ICC can be useful in helping those working on the code to understand current issues. If appropriate, the perspective of other stakeholders, including

businesses or sectors that may not be fully represented in the ICC, as well as consumers and other stakeholders, can be gathered informally in several ways such as : a) Feedback from businesses, directly or through national committees, on the views and priorities of consumers, NGOs, regulators and other stakeholders in their region; and b) Invitations for presentations and discussions by diverse stakeholder interests on issues under consideration at ICC meetings.

The ICC will assess the appropriateness of consultation with other stakeholders on their ability to:

- offer new information or insight on technologies, techniques and consumer understanding of, or reaction to marketing and advertising that would inform the code drafting process.
- either identify issues to examine in the code and/or evaluate appropriate code revisions,
- provide feedback on practical impacts of the code.

It is only through a process that allows for a thorough understanding of issues that the ICC can develop practical code guidance that balances consumer and business concerns in a truly international way. The national committee structure, which has served the ICC well, will continue in its key role.

*** **

The International Chamber of Commerce (ICC)

ICC is the world business organization, a representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world.

The fundamental mission of ICC is to promote trade and investment across frontiers and help business corporations meet the challenges and opportunities of globalization. Its conviction that trade is a powerful force for peace and prosperity dates from the organization's origins early in the last century. The small group of far-sighted business leaders who founded ICC called themselves "the merchants of peace".

ICC has three main activities: rules-setting, dispute resolution and policy. Because its member companies and associations are themselves engaged in international business, ICC has unrivalled authority in making rules that govern the conduct of business across borders. Although these rules are voluntary, they are observed in countless thousands of transactions every day and have become part of the fabric of international trade.

ICC also provides essential services, foremost among them the ICC International Court of Arbitration, the world's leading arbitral institution. Another service is the World Chambers Federation, ICC's worldwide network of chambers of commerce, fostering interaction and exchange of chamber best practice.

Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well as on vital technical and sectoral subjects. These include financial services, information technologies, telecommunications, marketing ethics, the environment, transportation, competition law and intellectual property, among others.

ICC enjoys a close working relationship with the United Nations and other intergovernmental organizations, including the World Trade Organization and the G8.

ICC was founded in 1919. Today it groups hundreds of thousands of member companies and associations from over 130 countries. National committees work with their members to address the concerns of business in their countries and convey to their governments the business views formulated by ICC.

Copyright © 2009

International Chamber of Commerce

All rights reserved. This collective work was initiated by ICC which holds all rights as defined by the French Code of International Property. No part of this work may be reproduced or copied in any form or by any means – graphic, electronic, or mechanical, including photocopying, scanning, recording, taping, or information retrieval systems – without the written permission of International Chamber of Commerce (Department of Policy and Business Practice, Commission on Marketing and Advertising.)



International Chamber of Commerce

The world business organization

Policy and Business Practices

38 Cours Albert 1er, 75008 Paris, France

Tel +33 (0)1 49 53 28 28 Fax +33 (0)1 49 53 28 59

E-mail icc@iccwbo.org Website www.iccwbo.org