

ICC Sweden Comments on the Revision of Chapter C in ICC's Advertising and Marketing Communications Code

We welcome this opportunity to share our thoughts, ideas, and comments on the draft for the revised Chapter C in the ICC Advertising and Marketing Communications Code. These comments have been prepared in close dialogue with ICC Sweden's Marketing Committee, which gathers senior experts from across the Swedish business community. Below you will find suggestions and comments considering the substance of some articles as well as the terminology. There is also a sense that the chapter as it currently stands mixes rules relating to different types of marketing, i.e. direct marketing, data driven marketing and digital marketing communications. Apart from reviewing the terminology and definitions used, there is therefore also a need for a clearer structure of the chapter. For this purpose, we have attached a proposal on how to revise the structure of the chapter at the end of this document. Proposed changes to the substance of the text can also be found in a separate document with changes marked directly in the current draft text.

Terminology

- The definition of the term "data driven marketing" currently combines both direct marketing and data driven marketing. The latter has the risk to encompass a too broad scope given that marketing, in general, is increasingly reliant on data and could potentially encompass any form of online advertising. The current use is found problematic, and particularly so in Article C8 where our specific comments are detailed below.
- We suggest dividing this into two definitions, one covering "direct marketing" and one covering "data driven marketing". The idea is to reflect the difference between the right to data protection and privacy when collecting personal data (i.e. you will see an ad, but the issue relates to its content) and the right to decide in which channels you want to receive direct marketing. We suggest that the definitions are in line with ICC Belgium's proposals with minor additions, see separate document.
- Further, the reference to IP addresses in the terminology risks to capture contextual online advertising as a whole. IP addresses are always used as the means by which ads are served over the internet and are also not a means of addressing an individual directly on their own. We therefore suggest to remove the reference of IP addresses and clarifying the scope as such: "*but*

excluding online advertising displayed within a website, app or other property visited by the individual.”

The comments below refer to the articles in the original draft, see the proposed new order of the articles at the end of this document.

Article C6

- Consider if the following sentence should rather target digital marketing communications than data driven marketing communications: “Marketers should strive to avoid causing offense by respecting social norms, local culture and tradition in markets where they are engaging in *data driven marketing*.”

Article C8

- Given that almost all marketing is data driven today, the use of this terminology with its current broad definition would open up the possibility to completely opt out from receiving ads, which would in turn affect all outlets that are financed by marketing.
- Clarify in the last paragraph, that it refers to direct marketing not marketing communications in general.

Article C17

- The purpose of this article appears somewhat unclear. To our understanding, there have been no similar articles governing the amount of marketing vs content for TV, radio or news stations in the past. Users have different personal preferences for the amount and type of advertising they want to receive and make their media choices accordingly.

Structure

As it stands, both with regards to definitions and structure, the draft chapter mixes different types of marketing communications. This has the effect that it is unclear what articles apply to which type of communications and can in effect mean that some rules are much broader and go beyond what is reasonably intended. Therefore, we propose the following structure for the chapter.

Data Driven Marketing, Direct Marketing and Digital Marketing Communications

Scope of Chapter C

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

Data driven marketing and digital marketing communication

- Article C1 Data protection and privacy (*this is important to include here as it is an important aspect of data driven marketing and should reflect Article 22 of the GP*)
- Article C2 Digital Marketing Communication and Interest Based Advertising (IBA)
 - o C2.1 Notice
 - o C2.2 User Control
 - o C2.3 Accountability
 - o C2.4 Enforcement
 - o C2.5 Education
 - o C2.6 Precise Location
 - o C2.7 Cross Device Tracking
 - o C2.8 Data Security
 - o C2.9 Children
 - o C2.10 Sensitive Data Segmentation
- Article C3 Respect for the Potential Sensitivities of a Global Audience
- Article C4 Respect for Public Groups and Review Sites
- Article C5 Respecting Consumer Use of Digital Interactive Media

Direct marketing

- Article C6 Respecting the Wish not to Receive Communications
- Article C7 Telemarketing
 - o C7.1 Disclosures
 - o C7.2 Reasonable Hours
 - o C7.3 Right to Written Confirmation
 - o C7.4 Monitoring of Conversations
 - o C7.5 Unlisted Numbers
 - o C7.6 Use of Predictive Dialling Services and Automatic Dialling Announcing Services

General Provisions for Data Driven Marketing, Direct Marketing and Digital Marketing Communication (*it can be considered whether this would be the appropriate title of this subsection*)

- Article C8 Responsibility
- Article C9 Respect **for Children** in Data Driven Marketing, Direct Marketing and Digital Marketing Communications ~~for Children~~
- Article C10 Identity of the Marketer
- Article C11 Identification and Transparency
- Article C12 Presentation of the Offer

- Article C13 Transparency on Cost of Communication
- Article C14 Prices and Credit Terms
- Article C15 Fulfilment of Orders
- Article C16 Substitution of Products
- Article C17 Return of Faulty or Damaged Products
- Article C18 Payment and Debt collection
- Article C19 Right of Withdrawal
- Article C20 After-sales Service

We hope that you will give these comments due consideration and look forward engaging with you in the continued process of revising the Code.