International Chamber of Commerce
Policy and Business Practices

# MOBILE SUPPLEMENT TO THE ICC RESOURCE GUIDE FOR SELF-REGULATION OF INTEREST BASED ADVERTISING

## GUIDELINE

Prepared by the ICC Commission on Marketing and Advertising

**Summary and highlights**




INTERNATIONAL CHAMBER OF COMMERCE
The world business organization

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## 1. Introduction

The International Chamber of Commerce (ICC) is uniquely positioned to provide guidance on marketing and advertising around the globe. As the world's foremost business organisation, 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 foundation and building block for self-regulatory structures around the world. These self-regulatory systems have helped industry build trust with consumers by promoting advertising that is honest, legal, decent and truthful, while offering quick and easy redress when transgressions occur.

The Code has also served business and society by providing ethical guidelines that build on fundamental pillars, create a level playing field and harmonize approaches across markets, while minimizing the need for legislative or regulatory restrictions that add inefficiency and cost. As new practices and technologies have evolved, ICC has revised and extended the scope of the Code to assure its usefulness and relevance. In this way, the Code also demonstrates that when effectively implemented, self-regulation has an ability to be more rapidly adaptable and responsive to market needs than most legislative alternatives.

These guidelines for mobile technologies, applications (apps), and mobile advertising are a supplement to the ICC Resource Guide for Self-Regulation of Interest based Advertising[1]. The guidance and its underlying principles are consistent with ICC self-regulatory guidance, a key tenet of which is that self-regulation is most effective when it applies to – and is honored by – all actors in the business ecosystem.

## 2. Background and Scope: The ICC Code and existing coverage of mobile marketing

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

When applied in different countries or specific markets, ICC global codes enhance harmonisation and coherence, yet they are flexible enough to accommodate variations in culture and societal rules and norms.

The Code is media and technology neutral. It has general principles that apply to all marketing communications, *which includes advertising as well as other techniques, such as promotions, sponsorships and direct marketing, 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*. There are four chapters with more specific provisions relating to Sales Promotion, Sponsorship, Direct Marketing and Digital Marketing Communications and Environmental Claims.

In the Code the term 'Digital interactive Media' *refers to any media platform, service or application providing electronic communications, using the internet, online services, and/or electronic or communication networks, including mobile phone, personal digital assistant and interactive game consoles which allow the receiving party to interact with the platform, service or application*.

For purposes of this guidance, the term "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 card or personal identifier for the device.

[1] Also referred to as 'online behavioural advertising'

All marketing communications content for mobile is covered by the Code, which is technology neutral, just as it would be for any other medium. Mobile web advertising and marketing is expected to meet the same standards for ethical and responsible practice that are set out by the Code. However, how these principles are applied in practice may need to be adapted to the limitations of screen-size on mobile or to the uniquely personal nature of information that may be stored on or obtained through these devices.

Many prevailing laws and regulations pertain to mobile advertising. The ICC Code is to be applied against the background of whatever legislation may be applicable. Likewise, the purpose of this ICC guidance is to complement existing privacy legislation[2] or mobile advertising regulations in relevant jurisdictions.

## 3. Existing self-regulation and recommended best practice for specific mobile issues

All articles of the ICC Code should be respected when developing mobile marketing communications. Specific articles of the ICC Code to consider and take particular care to follow with regard to the issues addressed in this guidance include:

**General principles**
Article 7 – Identification and transparency
Article 8 – Identity
Article 18 – Children and teens
Article 19 – Data protection and privacy
Article 20 – Cost of communication

**Direct Marketing and Digital Marketing Communications**
Article C1 – Identification and transparency
Article C2 – Identity
Article C7 – Marketing communications and children
Article C8 – Respecting consumer wishes
Article C9 – Respecting consumer use of digital interactive media
Article 21.2 – Reasonable hours
Article 21.3 – Right to written confirmation
Article 21.5 – Unlisted numbers
Article C22 – Provisions for interest based advertising

Further ‘recommendations’ to consider as best practice for mobile marketing communications include:

**Notice and Transparency**
Apps should endeavour to provide key privacy information in simple and short disclosures. If possible, the information should render easily on the small screen of a mobile device.

Key privacy information could include, for example, what information an app collects, how the information will be used, and with whom the information will be shared both from within the app and prior to download/install.

[2] The EU General Data Protection Regulation (GDPR) is an example of privacy legislation that will need to be considered carefully in terms of its scope and applicability.

Apps should provide “just in time” notice for use of sensitive data and/or unexpected uses of data (the mobile platforms’ permissions process may be leveraged for such notices), including, but not limited to:

- financial information
- precise geolocation
- health or medical information
- accessing contacts, calendar, photos, video, or other media files
- accessing other sensors or features on the phone (like a camera, microphone, Bluetooth connection, or SMS messages)
- offering in-app purchases
- push notifications

Additional fields to consider disclosing to the user (e.g. through a posted privacy policy) include, but are not limited to:

- Identity and contact details of the controller
- The contact details of the Data Protection Officer (DPO), where applicable
- “How” used should include the purpose and legal basis for processing
- The recipients, or categories of recipients of the personal data; international transfers
- Period for which the information will be stored
- Existence of data subject rights
- Existence of the right to lodge a complaint with a Data Protection Authority (DPA)
- The existence of automated decision-making, including profiling, and in those cases meaningful information about the logic involved and significance of envisaged consequences of processing for the data subject.

**Control and Choice**
Where appropriate, an app should provide users control and choice around the collection, storage, and transfer of personal information. For example, consent may be required for precise location data.

**Precise Location**
Precise location data is data that describes the precise location of a device derived through any technology that is capable of determining with reasonable specificity the actual physical location of an individual or device, such as GPS-level latitude/longitude coordinates or location-based frequency signal triangulation. Precise location data does not include general location data, such as postal code, city or neighbourhood, whether that data is derived from an Internet Protocol (IP) address or other sources.

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

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

**Limit Ad Tracking**
Limit Ad Tracking is a user privacy preference specific to iOS and Android devices which limits the use of data collected/associated with a mobile device identifier, specifically the iOS IDFA (ID For Advertisers) or the Android Advertising ID. When Limit Ad Tracking is enabled by the user, the advertising identifier or other mobile device identifiers such as Unique Device ID (UDID), android_id, or mac address should not be used for advertising purposes, unless there is a more specific choice by the user that would allow the use of identifiers for advertising purposes.

**Third Parties**
To the extent an app will leverage third party technology or services, agreements should be negotiated and reviewed to ensure that data is only shared with the third party as contemplated by the app accompanying privacy policy.

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

Users should not be led to believe tracking is more limited than it is, or that they have blocked all tracking across all apps, browsers and user devices when that is not the case. Companies should ensure that a consumer's opt-out on one device to prevent that device from receiving interest based ads should also prevent data from that device from informing interest based ads on other devices linked through cross-device linking. If the choices offered do not cover all the ways companies track consumers, then this should be clearly and prominently indicated.

**Security**
Systems that store or process user data should be protected via industry-standard security controls and best practices (e.g., restricted access, auditing, encryption where necessary).

**Children**
If your app is targeted or appeals to children or has any age screening mechanism in place, ensure compliance with applicable laws that restrict data collection from users under a particular age.[3]

## 4. Conclusion

As always, consultation of the full set of pertinent ICC self-regulatory guidance is recommended for comprehensive understanding of compliance. As technology rapidly evolves, more guidance may be available over time.

[3] For example, in the United States, the Children's Online Privacy Protection Act prohibits the collection of personal information from users under thirteen without verifiable parental consent (except under limited exceptions where risks to children are low). Other laws may adopt different age thresholds. Different methods of parental consent are accepted depending on the potential risks, with the most robust forms of consent reserved for instances where information is shared with third parties except those who help support internal operations of the controller.

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**The International Chamber of Commerce (ICC)**

The International Chamber of Commerce (ICC) is the world's largest business organisation with a network of over 6 million members in more than 100 countries. We work to promote international trade, responsible business conduct and a global approach to regulation through a unique mix of advocacy and standard setting activities—together with market-leading dispute resolution services. Our members include many of the world's largest companies, SMEs, business associations and local chambers of commerce.

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