

# Chapter 3

## Creativity, Ethics, and Regulation in the Age of Generative AI

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### ABSTRACT

*In the age of Generative Artificial Intelligence (GenAI), questions arise about whether the International Chamber of Commerce's Advertising and Marketing Code (the ICC Code) is prepared to handle emerging ethical dilemmas. This chapter reviews the provisions of the ICC Code within the context of Artificial Intelligence (AI), assessing its relevance to issues of originality, transparency, and fairness. Using a mixed-methods approach that combined qualitative and quantitative techniques, specialized marketing and advertising journal articles were analyzed to pinpoint contemporary debates. Our findings indicate that while AI positively transforms creativity and customization in marketing, it also proposes significant ethical and regulatory challenges. Conclusions suggest that the ICC Code needs to be updated to reflect societal changes. This analysis contributes to the discussion on the need for robust regulatory frameworks in a rapidly evolving technological landscape.*

### INTRODUCTION

The adoption of GenAI in creative fields marks a significant shift in how industries, particularly advertising, approach innovation and content production. This technology has not only transformed creative workflows by increasing efficiency and productivity but has also sparked intense debate about the ethical implications and the future of human creativity.

According to a study by Zhou and Lee (2024), GenAI can boost artists' creative productivity by 25% and enhance the valuation of their works by 50%, indicating a substantial shift in digital art production (Zhou & Lee, 2024). Concurrently, research from the Harvard Business Review highlights how GenAI not only automates content creation but also facilitates the generation of divergent ideas and assists in overcoming expertise bias (Eapen et al., 2023). This support in idea refinement is crucial at a time when speed and innovation are more important than ever.

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Despite these improvements, AI's ability to generate content that rivals or even surpasses human creativity in some features has raised concerns about originality and authenticity (Marr, 2023). The democratization of creativity, as discussed in the works of Tewari (Tewari, 2024) and Eapen et al. (2023), suggests a balance between accessibility and the market saturation with ideas that may lack depth without proper human intervention.

The ethics of using GenAI in creative processes are complex. Technology presents an opportunity to democratize participation in creativity and innovation, allowing a broader range of individuals to express themselves beyond traditional barriers. However, as noted by the Harvard Business Review, it is also essential to manage this technology in a way that fosters genuine collaboration between AI and humans, rather than merely replacing human creativity (Eapen et al., 2023).

Ethics play a highly relevant role in the implementation and use of generative AI in creativity, as well as other aspects. For instance, this technology raises significant questions about intellectual property since AI generates content based on existing data, which some believe may infringe copyright and raise questions about originality. Transparency and accountability are essential, as users must be clear about the use of AI in their creative processes and take responsibility for the works produced.

Additionally, there is a legitimate concern about the displacement of creative positions, making it vital that AI complements rather than replaces human workers. Also, it will be crucial to ensure that AI algorithms are inclusive, promoting diversity and avoiding perpetuating existing biases. The democratization of creativity through AI must ensure equitable access, allowing people from diverse backgrounds to benefit from these technologies. Only through ethical integration that considers these characteristics, among others, can we ensure that AI contributes to a creative and sustainable future.

Given the significant transformation that generative AI is causing in creative and advertising processes, it is imperative to consider how these developments impact existing norms and regulations, both binding and ethical. In this chapter, the case of the ICC Code, which sets guidelines on ethics and responsibility in commercial communications, will be evaluated.

## **THEORETICAL FRAMEWORK**

### **The International Chamber of Commerce and the Technological Revolution**

The International Chamber of Commerce (ICC) is a pivotal entity on the global stage, facilitating the functioning of international trade and investment to foster peace, prosperity, and opportunities. Established in 1919 following World War I, the ICC was founded on the belief that trade is a powerful force for peace. Known as the “Merchants of Peace,” its founders aimed to strengthen commercial ties between nations, thereby reducing the propensity for conflict and enhancing shared prosperity.

Over the years, the ICC has advocated for open trade and worked to resolve commercial disputes through its renowned arbitration system. As a permanent observer at the United Nations and a proponent of multilateralism, the ICC plays a crucial role in promoting policies that favor a more inclusive and sustainable global business environment. This role strategically positions it to develop and promote international norms, such as its marketing code, which seeks to regulate and improve business practices worldwide.

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