

**PROPOSED REVISION OF
THE ICC/ESOMAR INTERNATIONAL CODE
ON MARKET, OPINION AND SOCIAL RESEARCH**

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CONTENTS

- Introduction 3
- Purpose and Scope 3
- Interpretation 3
- Definitions 4
- Fundamental Principles 5
- Articles 5
 - Responsibilities to data subjects..... 5
 - Article 1 - Duty Of Care 5
 - Article 2 - Children, Young People And Other Vulnerable Individuals 6
 - Article 3 - Data Minimisation 6
 - Article 4 - Notice And Consent..... 6
 - Article 5 - Data Protection And Privacy 7
 - Responsibilities to clients..... 8
 - Article 6 - Transparency 8
 - Responsibilities to the general public..... 8
 - Article 7 - Publishing Findings 8
 - Responsibilities to the research profession..... 8
 - Article 8 - Professional Responsibility..... 8
 - Article 9 - Legal Responsibility 9
 - Article 10 - Compliance 9
 - Article 11 - Implementation..... 9

INTRODUCTION

Market, opinion and social research (hereafter referred to as “research”) is the systematic gathering and interpretation of information about individuals and organisations. It uses the statistical and analytical methods and techniques of the applied social and behavioural sciences to generate insights and support decision-making by businesses, governments, non-profit organisations and the general public.

Throughout most of our history researchers have relied primarily on data collected through direct interaction with and observation of participating individuals and organisations. That is now changing. People increasingly share information and opinions of all kinds unconnected to research requests via an ever-evolving social media landscape. The digitisation and democratisation of a broad array of everyday events — both online and offline — is creating new opportunities to study behaviour and preferences. As a result, market, opinion, and social researchers increasingly rely on data collected by others and for some purpose other than research.

This broad shift in data sources and accompanying methodologies has created new ethical and legal challenges. This revision of the ICC/ESOMAR International Code on Market, Opinion and Social Research ensures that researchers working with both traditional and new sources of data continue to meet their ethical responsibilities to the individuals whose data they process and to the clients and organisations they serve.

PURPOSE AND SCOPE

The ICC/ESOMAR International Code on Market, Opinion and Social Research is a comprehensive framework for self-regulation. It is intended to safeguard the right of researchers to seek, receive, and impart information as stated in Article 19 of the United Nations International Covenant on Civil and Political Rights. It sets essential standards of ethical and professional conduct designed to maintain public confidence in research, while also requiring strict adherence to any relevant regional, national and local laws or regulations and industry/professional codes of conduct that may set a higher standard.

This Code applies to all market, opinion and social research worldwide undertaken by members of ESOMAR and other research associations that have officially adopted it.

INTERPRETATION

This Code is to be applied in the spirit in which it was written as well as to the letter. It should be read in conjunction with other relevant ICC and ESOMAR codes, guidelines, principles, and framework interpretations intended to apply the Code in the context of specific research methods and applications. These and other similar documents are available at www.iccwbo.org and www.esomar.org.

DEFINITIONS

For the purpose of this Code:

Adverse consequences means any harm or negative impact on a data subject, including any physical, emotional, or financial distress, arising as a direct result of participating in research or providing personal data used in research.

Children means individuals for whom permission to participate in research must be obtained from a parent or legal guardian. Definitions of the age of a child vary substantially and are set by national laws and self-regulatory codes. In the absence of a national definition, a child is defined as being 12 and under and a “young person” as aged 13 to 17.

Client means any individual or organisation that requests, commissions, or subscribes to all or any part of a research project.

Consent means freely given and informed indication of agreement by a person to the collection and processing of his/her personal data.

Data collection means any process for obtaining information from or about an individual or organisation.

Data subject means any individual whose personal data is used in research.

Non-research activity means an exercise with one or more of the following characteristics:

- The intent is to take direct action toward the individual whose data is collected.
- The principal purpose is to promote or change the attitudes, opinions, or actions of the individual from whom data is collected.

Passive data collection means the collection of personal data by observing, measuring or recording a data subject’s actions or behaviour.

Personal data means any information relating to a natural living person who can be identified directly or indirectly, in particular by reference to direct identifiers (such as a name, address, or telephone number) or an individual’s physical, physiological, mental, economic, cultural or social characteristics. In some types of research such data records could include situations where individuals might be identifiable because of images or sound recordings, or other identifying information collected during the research.

Privacy notice means an expression of an organisation’s privacy practices describing the ways an organisation gathers, uses, discloses, and manages a data subject’s personal data.

Research, which includes all forms of market, opinion and social research, is the systematic gathering and interpretation of information about individuals and organisations. It uses the statistical and analytical methods and techniques of the applied social and behavioural sciences to generate insights and support decision-making by corporations, governments, non-profit organisations, and the general public.

Researcher means any individual or organisation carrying out or acting as a consultant on research, including those working in client organisations and any subcontractors used.

Vulnerable people means individuals who may have limited capacity to make voluntary and informed decisions, including those with cognitive impairments or communication disabilities.

FUNDAMENTAL PRINCIPLES

This Code is based upon three fundamental principles that have characterised market, opinion, and social research throughout its history:

1. Researchers must inform data subjects how their personal data collected for research will be used and, if the data subjects agree for it to be passed to a client, protect them against any adverse consequences as a result of it having been shared.
2. Researchers must ensure that personal data used in research is thoroughly protected from unauthorised access and not disclosed without the consent of the data subject.
3. Researchers must always behave ethically and do nothing that might damage the reputation of market, opinion, and social research.

ARTICLES

Responsibilities to data subjects

ARTICLE 1 - DUTY OF CARE

- (a) Researchers must ensure that data subjects experience no adverse consequences as a direct result of their personal data being used for research.
- (b) Researchers must exercise special care when the nature of the research is sensitive or the circumstances under which the data is collected might cause a data subject to be upset or disturbed.
- (c) Researchers must remain mindful that research relies on public confidence in the integrity of research and the confidential treatment of the information provided, for its success, and must therefore remain diligent in maintaining the distinction between research and other activities.¹
- (d) If researchers engage in non-research activities, for example promotional or commercial activities directed at individual data subjects, these must be clearly distinguished and separated from the research activity.

¹ As it is important that other actors also clearly distinguish research from commercial activities, attention is drawn to Article 9 of the consolidated ICC Code of Marketing and Marketing Communications Practice: “Marketing communications should not misrepresent their true commercial purpose. Hence a communication promoting the sale of a product should not be disguised as for example market research, consumer surveys, user-generated content, private blogs or independent reviews.”

ARTICLE 2 - CHILDREN, YOUNG PEOPLE AND OTHER VULNERABLE INDIVIDUALS

- (a)** Researchers must obtain the consent of the parent or responsible adult when collecting personal data from children and anyone for whom a legal guardian has been appointed.
- (b)** Special care must be taken when considering whether to involve children and young people in research. The questions asked must take into account their age and level of maturity and their confidentiality must be protected.
- (c)** When working with other vulnerable individuals, researchers must ensure that data subjects are capable of making informed decisions and are not unduly pressured to cooperate with a research request.

ARTICLE 3 - DATA MINIMISATION

Researchers must limit the collection and processing of personal data to those items that are relevant to the research.

ARTICLE 4 - NOTICE AND CONSENT

- (a)** When collecting personal data directly from a data subject for the purpose of research:
 - i. Researchers must identify themselves promptly and data subjects must be able to check the identity and bona fides of the researcher without difficulty.
 - ii. Researchers must clearly state the purpose of the research as soon as methodologically possible.
 - iii. Researchers must ensure that participation is voluntary and based on information about the general purpose and nature of the research, that is adequate and not misleading.
 - iv. Data subjects must be informed if there is any activity that will involve recontact and agree to be recontacted.
 - v. Researchers must respect the right of individuals to refuse requests to participate in the research.
- (b)** Appropriate measures must be taken to ensure that data subjects can exercise their rights to withdraw from the research at any time and access or rectify personal data held about them.
- (c)** Passive data collection should be based on the consent of the data subject and all conditions in Article 4(a) should be met.
- (d)** When using passive data collection methods where it is not possible to obtain consent, there must be legally permissible grounds to collect the data, which may include employing measures to pseudonymise or anonymise data.

- (e) When using personal data that was originally collected for a purpose other than research, the researcher must review the terms and conditions under which the data was collected or stored and determine what if any additional notice or consent is required from the data subject.

ARTICLE 5 - DATA PROTECTION AND PRIVACY

- (a) If the researcher wishes to collect personal data for research that may also be used by their client for a non-research purpose, this should be made clear to the data subject in advance and they should be told at the end of the data collection process they will be given the opportunity to choose whether their data can be made available to the client in identifiable form or their data must remain anonymous.
- (b) Researchers must not share a data subject's personal data with a client unless:
 - i. appropriate consent has been given and assurance has been obtained from the client that no non-research activity will be directed at him or her as a result of the data having been used in research or
 - ii. the data subject has either unambiguously expressed this wish to share his or her personal data or has given his or her consent.
- (c) Researchers must take all reasonable precautions to ensure that personal data is held securely. It must be protected against risks such as loss, unauthorised access, destruction, use, modification, or disclosure. Personal data is to be held no longer than is necessary for the purpose for which it was collected
- (d) Researchers must have a privacy notice that is readily accessible and easily understood.
- (e) If personal data is transferred to third parties, researchers must ensure that the recipient organisation employs at least an equivalent level of security measures.
- (f) In the event of a data breach containing personal data researchers have a duty of care for the data subjects involved and must follow all applicable data breach notification laws.
- (g) Particular care must be taken to maintain the data protection rights of individuals whose personal data is transferred from one jurisdiction to another. Such transfers must not be made without the consent of the data subject, or other legitimate basis. In addition, all reasonable steps must be taken to ensure that adequate security measures are observed and that the data protection principles of this Code are complied with.

Responsibilities to clients

ARTICLE 6 - TRANSPARENCY

- (a) Researchers must design research to the specification and quality agreed with the client and in accordance with Article 8a.
- (b) Researchers must ensure that findings and any interpretation of them are clearly and adequately supported by data.
- (c) Researchers must on request allow clients to arrange for independent checks on the quality of data collection and data preparation.
- (d) Researchers must provide clients with sufficient technical information about the research to enable them to assess the validity of the results and any conclusions drawn.
- (e) When reporting on the results of research, researchers must make a clear distinction between the findings, the researchers' interpretation of those findings, and any conclusions drawn or recommendations made.

Responsibilities to the general public

ARTICLE 7 - PUBLISHING FINDINGS

- (a) Researchers have a responsibility to ensure that when research results are published, the public has access to sufficient basic information to assess the quality of the data used and the validity of the conclusions.
- (b) Researchers must always make available upon request the additional technical information necessary to assess the validity of any published findings.
- (c) Where the client plans to publish the findings of a research project, the researcher must ask the client to consult with the researcher as to the form and content of publication. Both the client and the researcher have a responsibility to ensure that published results are not misleading.
- (d) Researchers must not allow their name or that of their organisation to be associated with the dissemination of conclusions from a research project unless those conclusions are adequately supported by the data.

Responsibilities to the research profession

ARTICLE 8 - PROFESSIONAL RESPONSIBILITY

- (a) Researchers must be honest, truthful, and objective and ensure that their research is carried out in accordance with appropriate scientific research principles, methods, and techniques.

- (b) Researchers must always behave ethically and must not do anything that might unjustifiably damage the reputation of market, opinion, and social research or lead to a loss of public confidence in it.
- (c) Researchers must be straightforward and honest in all of their professional and business dealings.
- (d) Researchers must not unjustifiably criticise other researchers.
- (e) Researchers must not make false or otherwise misleading statements about their skills, experience, or activities, or about those of their organisation.
- (f) Researchers must conform to the generally accepted principles of fair competition.

ARTICLE 9 - LEGAL RESPONSIBILITY

Researchers must conform to all applicable international and national laws, and local professional standards or rules.

ARTICLE 10 - COMPLIANCE

- (a) Researchers have overall responsibility for ensuring that research is carried out in accordance with this Code, for ensuring that clients and other parties to the research agree to comply with its requirements, and that the Code is applied, where appropriate, by all organisations, companies and individuals at all stages of the research.
- (b) Subsequent correction and/or appropriate redress for a contravention of this Code by the party responsible, is desirable but does not excuse the contravention.
- (c) Failure by an ESOMAR member to co-operate with a disciplinary investigation by ESOMAR into a possible breach of this Code will in itself be considered to be a breach of the Code.

ARTICLE 11 - IMPLEMENTATION

- (a) This Code and the principles enshrined in it should be adopted, implemented, nationally and internationally by the relevant local, regional and national self-regulatory bodies. Researchers and clients also should familiarise themselves with relevant local self-regulatory documents on research and with decisions taken by the appropriate self-regulatory body.
- (b) Requests for interpretation of the principles contained in this Code may be submitted to the ESOMAR Professional Standards Committee or the ICC Commission on Marketing and Advertising for interpretation.