AI Washing

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AI washing risks

AI is increasingly embedded in marketing with product and service ads claiming AI integration. "AI washing", the practice of exaggerating or fraudulently claiming AI capabilities and use can take many forms. AI washing can reduce trust in emerging technologies and increase the risk of legal and regulatory penalties as well as reputational risk.

AI washing has gained the attention of regulators, with enforcement actions targeting companies that mislead about their AI capabilities. For example, in March 2024, the US Securities Exchange Commission (SEC) issued enforcement actions against two investment advisor firms (one based in Toronto, and the other based in San Francisco) for misleading clients and prospects with false claims about their use of AI in marketing materials.

In Canada, the Competition Bureau has said that claims that promote AI related abilities are treated the same as any other claims and that a company must make it very clear in marketing materials what they mean.

Common red flags include overstated performance promises, lack of transparency about human involvement, and the absence of verifiable performance data or customer success examples.

AI washing isn't just a misleading practice; it's a fundamental breach of trust that can significantly damage organizations' reputation. Understanding the patterns and what to look out for is crucial for protecting your brand.

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Your AI claims are a brand promise.

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The AI authenticity test: real vs. hype

AI is fundamentally different from simple automation that follows pre-programmed rules. The key distinction lies in adaptability and learning. True AI systems improve their performance as they process more data.

When evaluating AI claims from you own organization and third parties, require documentation that is continuously updated. Look for specific metrics including accuracy, precision, and recall rates over time. Look for evidence of continuous learning and improvement over time. Red flags include vague terminology, unrealistic performance promises, hidden human involvement, and lack of concrete case studies or verifiable outcomes. It's critically important that all AI-related claims are accurate, substantiated, and not misleading, with appropriate disclosure and use of human oversight and transparent acknowledgement of system limitations.

Disclosures can be provided through a link to a detailed webpage or FAQs that includes technical specifications, customer testimonials, white papers and other materials that substantiate your AI claims.

As a marketing leader, the critical question to ask is if your AI claims are authentic and defensible?

The vendor due diligence scorecard

Effective AI vendor evaluation requires systematic assessment. Don't let impressive demos distract you from asking about performance and accountability – and whether the solution offered is even AI. Engage a qualified technical specialist in AI technologies to validate your vendors' claims and challenge vendors' responses to the below questions.

Essential questions to ask include:
- Can you provide detailed architecture documentation and explain how your AI model works?
- What specific training data was used, and how do you ensure its quality and freedom from bias?
- Can you provide case studies with quantifiable outcomes and verifiable customer references?
- How do you measure and report model performance, and what ongoing monitoring do you offer?
- What processes do you have for detecting bias and ensuring transparency in AI decisions?
- What role does human oversight play, and how can humans intervene when needed?
- How does your solution integrate with existing systems, and what ongoing support do you provide?

The evaluation scorecard weights technical capabilities (30%), business value (25%), vendor stability (20%), ethical compliance (15%), and support quality (10%). This framework covers the most important success factors.

Remember the response red flags: vague answers, inability to provide technical documentation, unrealistic performance claims, lack of bias mitigation processes, or absence of verifiable performance data or customer success examples.

Implementation checklist: your action plan

Immediate action steps include establishing pre-procurement readiness through strategic alignment, technical infrastructure assessment, and regulatory compliance assessments. Vendor evaluation should use the structured criteria scorecard set out in the previous section and engaging qualified stakeholders with technical subject matter expertise.

Compliance requires substantiating all AI claims with verifiable evidence, implementing human review processes and establishing clear disclosure standards for the use of AI in your products and services. Contract negotiations must address data, model and intellectual property ownership, liability allocation, and thresholds for acceptable performance metrics.

Focus on specifics, replace vague 'AI-powered' claims with actual functionality descriptions. For example, if you have performance data, cite that AI 'reduced initial response time to inquiries by 20%', or explain that the AI 'uses machine learning to prioritize customer inquiries based on urgency and type'.

Market human oversight as a quality feature, emphasizing the value of human-AI collaboration over full automation. Maintain detailed documentation of AI performance and customer outcomes to support marketing claims and demonstrate real-world value.

Establish ongoing content review processes that ensures AI-generated content and claims are vetted before publication and re-evaluate them on an ongoing basis due to the dynamic nature of AI. Build internal AI literacy to ensure marketing teams understand both the possibilities and limitations of AI technology and how it is being leveraged and/or deployed so it can be communicated accurately.

AI washing prevention toolkit

1. **Establish AI definitions**
   Create internal documentation that specifically defines what qualifies as AI within your organization and within industry best practices. Include criteria and examples.

2. **Create review processes**
   Assemble cross-functional review teams with legal, compliance, technical subject matter experts, and marketing to review and approved AI-related claims.

3. **Maintain documentation**
   Record all development processes, validation methods, and integration approaches. Store this documentation in an accessible system for regulatory inquiries.

4. **Prove claims**
   Collect verifiable evident to support every AI claim before making it public. No proof, no claim.

5. **Use specific language**
   Replace vague terms like "AI-powered" with descriptions of functionality. For example, "AI can generate personalized and relevant responses to customer questions".

6. **Separate present from future**
   Clearly label current capabilities versus future. Mark development roadmap features as "planned" or "in development", never present them as existing functionality.

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AI claims verification checklist

Before publishing any AI-related claims, we recommend using this checklist.

Pre-publication review

- ❑ Substantiation check: Do we have documented evidence supporting AI claim?
- ❑ Specificity test: Are our claims specific enough that a customer could verify them?
- ❑ Limitation disclosure: Have we acknowledged relevant limitations or risks?
- ❑ Human oversight: Is the role of human supervision clearly communicated?
- ❑ Performance claims: Are any superiority claims backed by reliability testing and metrics?
- ❑ Future vs. present: Are we clearly distinguishing current capabilities from future plans?
- ❑ Benefit clarity: Do we explain how AI delivers tangible customer value?
- ❑ Technical accuracy: Have technical experts verified our AI descriptions?
- ❑ Competitive claims: Are any comparative statements substantiated?

Legal and compliance review

- ❑ Do the claims comply with applicable laws and regulations?
- ❑ Have we identified and mitigated potential legal, regulatory and reputational risks?
- ❑ Do we have process for addressing AI-related incidents and complaints?
- ❑ Can we produce supporting evidence if challenged by internal and external stakeholders ?
- ❑ Have appropriate internal/external stakeholders signed off *before* publication and engaged for continuous review *after* publication?

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Recommended reading and references

- CMA Guide on AI for Marketers
- Setting the Stage on Artificial Intelligence: A CMA Primer on AI for Marketers
- CMA Accountability Checklists for AI In Marketing
- CMA Mastery Series: AI Playbooks
- McCarthy Tétrault: Is it really AI? Emerging Enforcement Against AI Washing
- Nova Scotia Securities Commission: What is AI Washing?
- TechTarget: AI Washing Explained

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The CMA

As the voice of Canadian marketing, the CMA champions our profession's powerful impact. We are the catalyst to help Canada's marketers thrive today, while building the marketing mindset and environment of tomorrow.

We provide opportunities for our members from coast to coast to develop professionally, to contribute to marketing thought leadership, to build strong networks, and to strengthen the regulatory climate for business success. Our Chartered Marketer (CM) designation signifies that recipients are highly qualified and up to date with best practices, as reflected in the CMA's Canadian Marketing Code of Ethics and Standards.

We represent virtually all of Canada's major business sectors, and all marketing disciplines, channels and technologies. Our Consumer Centre helps Canadians better understand their rights and obligations.

AI Mastery Series: This playbook is part of the CMA's comprehensive AI initiative designed to empower Canadian marketers with the knowledge, skills, and ethical frameworks needed to implement AI responsibly and effectively.

For more information, visit thecma.ca.

Prioritize transparency over hype.

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