

**AI PLAYBOOK 13**

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# AI Content Rights: Question, Assess, Protect

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**theCMA.ca**

Content partially generated by artificial intelligence, refined by human expertise.

This Playbook is part of the CMA's AI Mastery Series, empowering marketers to Implement AI in ways that earn regulatory confidence, maintain strong brand reputation, and foster consumer trust

# The hidden costs of unmanaged AI rights

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Understanding and managing AI content rights proactively allows Canadian marketers to avoid significant consequences.

Legal risks include copyright infringement claims when AI training data includes unauthorized copyrighted materials, loss of IP protection for purely AI-generated content under Canadian law, and unclear liability when AI outputs resemble existing works.

Business risks encompass reputation damage from undisclosed AI usage or competitive disadvantage when content lacks copyright protection. Your innovative AI-generated brand assets may become public domain, allowing competitors to leverage on your ideas without compensation.

The *Suryast* case at the Canadian Intellectual Property Office (CIPO) demonstrates how AI authorship questions are already challenging Canadian copyright frameworks.

# Your three-question shield framework



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Before publishing AI-assisted marketing content, pose these three-questions.

**Who created this content and who owns it?** Focus on establishing human authorship under Canadian copyright law through documented creative input and demonstrable skill and judgment.

**What rights do we have and what are our obligations?** Evaluate AI tool terms of service, commercial usage permissions, attribution requirements, and emerging disclosure obligations that build trust.

**What are our risks and how do we mitigate them?** Assess potential issues through training data transparency evaluation, output similarity checks, and brand protection measures.



Human  
creativity  
remains the  
foundation of  
ownership.

# Question 1: Who owns the creative?

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Canadian copyright law requires human authorship for protection. The Copyright Act doesn't recognize AI as an author, meaning purely AI-generated content falls into the public domain. To establish ownership, your team's creative contribution must be clear and documented.

Document this by saving initial prompts and detailing how they were refined, noting specific content selections, edits or modifications made by your team, and summarizing the strategic direction and creative choices guiding the AI's output. The key test is "skill and judgment" meaning did humans exercise sufficient creative control?

Remember that CIPO registration is administrative and doesn't guarantee copyright validity. Focus on demonstrating substantial human contribution that meets Canadian originality standards through documented creative choices, strategic decisions, and meaningful modifications to AI outputs.

# Question 2: What rights and obligations do users have?

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AI tool terms of service determine usage rights and obligations. Review commercial usage permissions, attribution requirements, and licensing restrictions for each platform. Some tools grant users full ownership while others retain rights or require specific attribution.

To avoid false or misleading claims, transparent disclosure of AI usage helps maintain audience trust. Does the AI output include elements that might belong to someone else? If so, investigate if separate licenses are needed.

Document your rights assessment including terms of service review dates, usage permissions, attribution requirements, and disclosure decisions. This creates a defensible position and demonstrates due diligence in rights management while building consumer confidence through transparency.

# Question 3: What are the risks and mitigation strategies?

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Assess infringement risks from both training data and outputs. Many AI models train on copyrighted materials without authorization, creating potential liability. Canadian courts haven't ruled on AI-related infringement, making this an evolving risk area that requires proactive management.

Evaluate output similarity to existing works through reverse image searches and plagiarism checks. Brand risks include authenticity concerns and consumer trust issues if AI usage isn't transparent. For instance, a "high-risk" score might apply to a national campaign image heavily reliant on AI, while "low-risk" could be AI-assisted brainstorming for internal content.

Mitigation strategies include vendor due diligence on training data practices, mandatory human oversight of all AI outputs, documentation of risk assessments, and escalation procedures for high-risk content. Implement scoring systems rating content as low, medium, or high risk based on AI involvement and commercial importance.

# Implementation roadmap

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Your first step: establish a clear AI use policy. This policy should explicitly state which AI tools are approved, define acceptable use cases, and outline your team's responsibilities. Train marketing teams on the three-question framework and documentation requirements to ensure consistent application.

Create standardized templates for tracking AI usage, human contributions, and rights assessments. Integrate checkpoints into content approval workflows requiring framework completion before publication. Develop vendor evaluation criteria for AI tools focusing on terms of service, training data transparency, and indemnification provisions.

Establish escalation procedures for high-risk scenarios and legal consultation triggers. Implement regular audits of AI content practices and policy updates based on regulatory developments. This systematic approach ensures consistent application while building organizational capability and maintaining competitive advantage through responsible AI adoption.



# Implementation checklists

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## Phase 1: Foundation setup

- ☐ Establish AI usage policy
- ☐ Define approved AI tools and platforms
- ☐ Specify acceptable use cases (first draft content creation, editing, brainstorming)
- ☐ Outline prohibited uses (no deepfakes, misleading content)
- ☐ Set human oversight requirements (AI-generated content must be reviewed by at least one senior copywriter)
- ☐ Define escalation procedures for high-risk content
- ☐ Create documentation templates
- ☐ AI content rights tracking log (one-page template)
- ☐ Human contribution documentation form (specific edits, creative direction, and decisions made by human team members)
- ☐ Risk assessment matrix
- ☐ Terms of service review checklist (ownership, commercial use permissions)

## Phase 2: Team preparation

- ☐ Train marketing teams
- ☐ Conduct three-question framework workshop
- ☐ Provide documentation training session
- ☐ Assign AI content rights champions
- ☐ Create quick reference guides
- ☐ Schedule quarterly refresher training
- ☐ Integrate workflow checkpoints
- ☐ Add AI rights review to content approval process
- ☐ Require framework completion before publication
- ☐ Set up approval gates for high-risk content
- ☐ Create digital workflow triggers

# Conservative vs agile approaches

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Conservative organizations prioritize maximum legal protection through substantial human creative input requirements (requiring significant human alteration of AI-generated content), comprehensive documentation protocols, thorough IP clearance reviews, and detailed records of authorship contributions. They use only AI tools with clear ownership provisions and implement extensive review processes.

Agile companies balance innovation with compliance through streamlined documentation, risk assessment scoring systems, focused review of high-impact content, and rapid response protocols. They accept calculated risks while maintaining essential protections and staying ahead of competitive trends.

Both approaches use the same three-question framework but apply different levels of rigor. Choose your approach based on industry regulations, competitive pressures, and organizational risk appetite while maintaining core compliance requirements that protect your brand and enable confident innovation.

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# Recommended reading and references

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- [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](#)
- [Dentons: Copyrightability of works created using generative AI: Will Canada align with the US?](#)
- [McCarthy Tetrault: Copyright does not protect content produced by Generative AI](#)
- [MLT Aikins: Copyright in the age of AI, legal tensions and emerging cases](#)
- [Canadian Intellectual Property Office](#)

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# The CMA

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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](https://thecma.ca).

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# Audit your AI usage.

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