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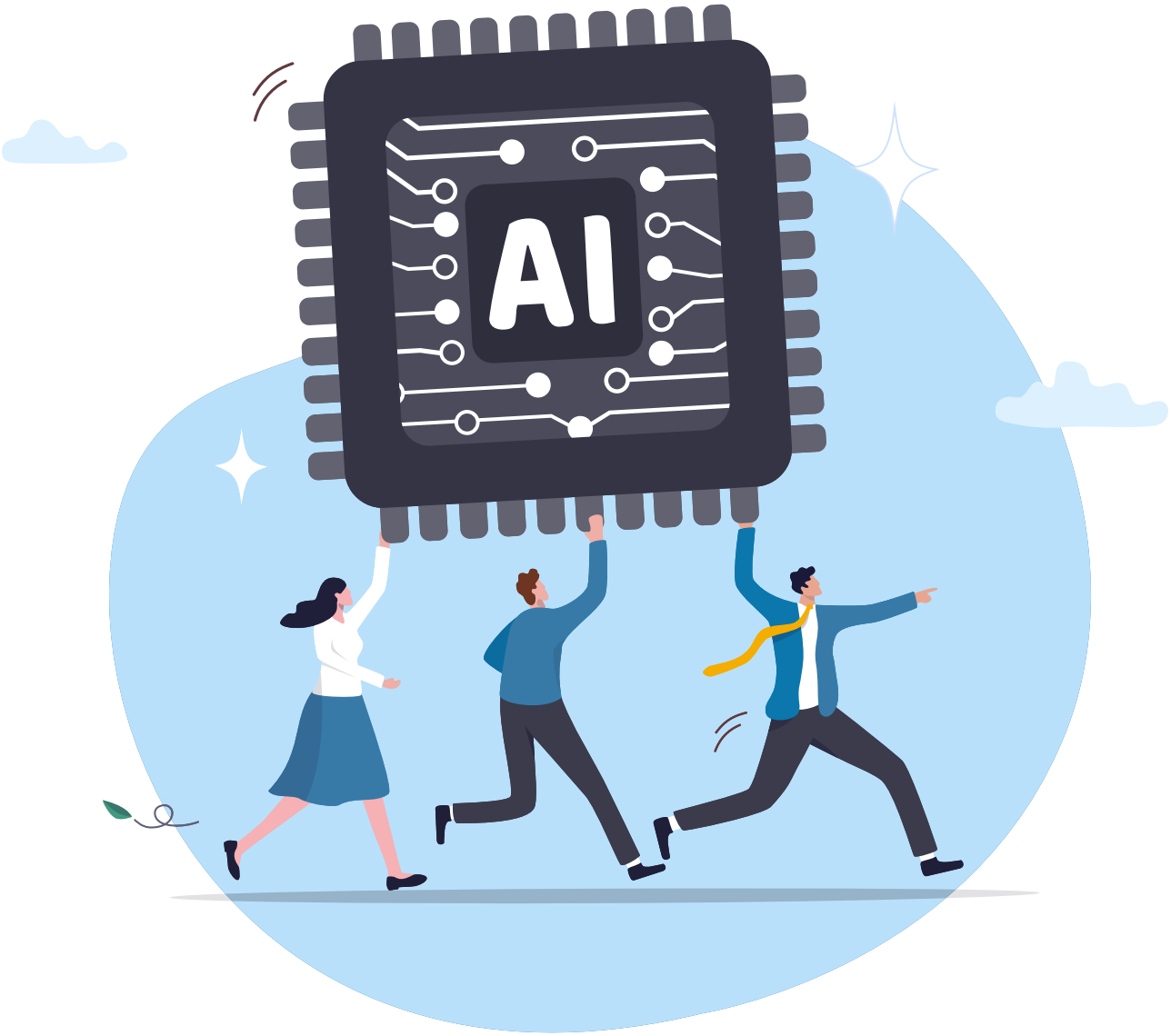
Setting the Stage on Artificial Intelligence: A CMA Primer for Marketers



Developed by the CMA in collaboration with the Vector Institute

CANADIAN MARKETING ASSOCIATION
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Introduction

Artificial Intelligence (AI) presents Canadian marketers with a pivotal choice that will shape the future of the profession. This transformative technology offers unprecedented capabilities in personalization and data-driven decision-making. However, the path forward is not predetermined. Marketers can harness AI to innovate responsibly and positively impact society, risk obsolescence by rejecting it, or potentially misuse it to create dark patterns and spread misinformation. As AI reshapes marketing, Canadian professionals stand at a crossroads where their decisions will define not just their strategies, but the ethical landscape of digital marketing itself.

From predictive analytics to chatbots, AI applications are optimizing and streamlining operations and enhancing customer experiences across the spectrum of automated workflows. The adoption of AI for activities ranging from content creation to customer segmentation to optimization is enabling businesses to achieve unprecedented levels of relevance and engagement.

For Canadian businesses, AI presents a compelling value proposition: the ability to compete more effectively in a global market by leveraging data insights, reducing costs and scaling personalized marketing activities. Thinking about the future, the integration of AI with other technologies like augmented/virtual reality and the Internet of Things promises to create immersive marketing experiences that were once in the realm of science fiction.

As marketers increasingly undertake the AI-driven journey, it is imperative to approach these technologies with both optimism and responsibility.

This primer provides Canadian marketers with:

- an understanding of how AI will impact marketing,
- the current state of AI adoption and the regulatory environment in Canada,
- the value proposition of AI for consumers, and
- an overview of important global frameworks for AI

Appendix 1 summarizes principles for responsible AI established by the OECD and the G-20 countries.

Appendix 2 outlines global regulatory initiatives in the EU, US, UK, and Latin America.

This primer sets the stage for the CMA Guide on AI for Marketers, which outlines regulatory expectations, offers practical insights and suggests best practices to help marketers leverage AI effectively and ethically. To successfully implement AI in marketing initiatives, it is important for marketers to carefully review the CMA Guide on AI for Marketers document, which provides essential frameworks and protocols for responsible AI usage. Following the CMA guide will help ensure organizations meet significant compliance, ethical, and performance standards.

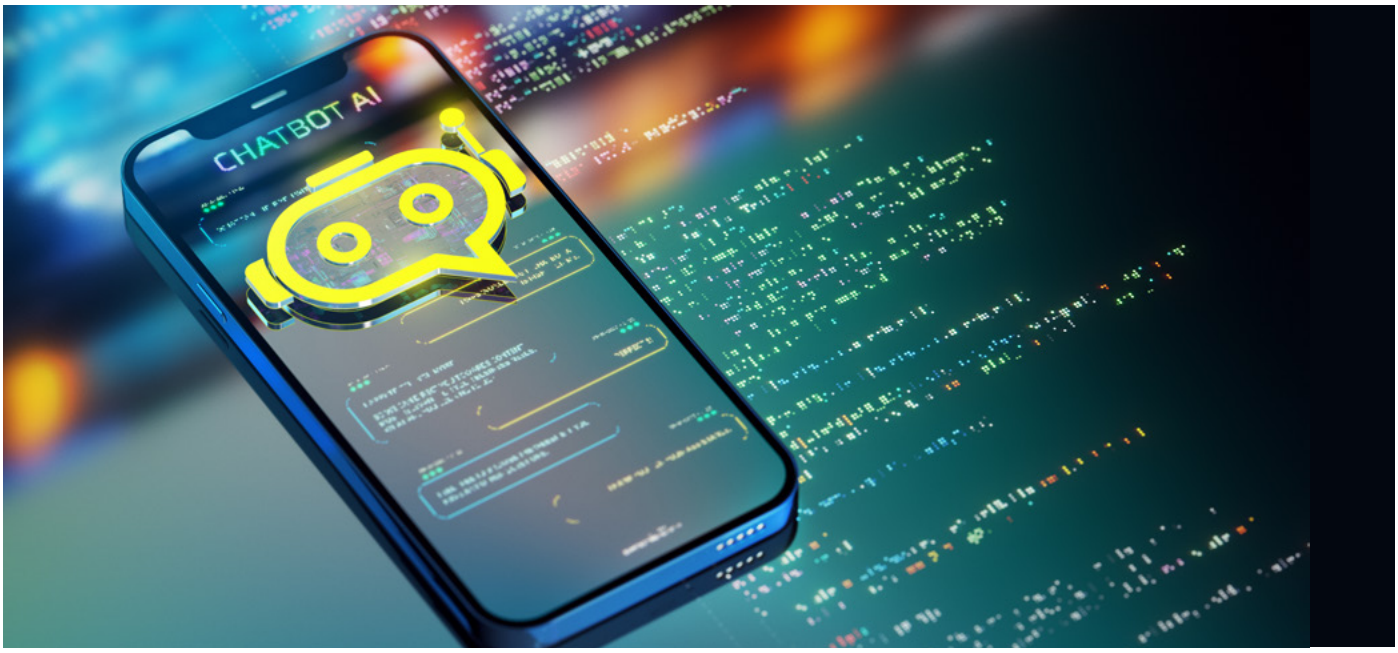
What is the Potential Impact of AI on Marketing?

AI is revolutionizing how businesses connect with their audiences and optimize their strategies. AI possesses computing capabilities to perform tasks that augment human intelligence and skills, such as visual perception, speech recognition, decision-making, and language translation.

For marketers, AI has become a powerful tool, transforming processes ranging from predictive analytics to AI-powered chatbots. The applications are vast and continually evolving. AI is enabling marketers to deliver hyper-personalized experiences, automate routine tasks, generate data-driven insights, and optimize campaign performance in real time.

Understanding and leveraging AI has become crucial for marketers seeking to gain a competitive edge, improve ROI, and create more meaningful connections with their target audiences. Integrating AI in marketing strategies is not just a trend, but a fundamental shift in how marketing is conceived, executed, and measured.

AI represents a new paradigm in algorithmic decision making, with designers having less control over how the decisions are made. The benefit is that computers can find better ways to make predictions, faster and at a lower cost. However, this also means we need to think about how we govern these processes in a different way. We already know that current governance practices have blind spots for AI, and we have gained valuable insights on how to mitigate these risks, which are covered on the CMA Guide on AI for Marketers. Please read it and implement those guidelines as appropriate to your organization to ensure you implement AI safely.



What is Gen AI and How is it Different from Traditional AI?

Until early 2010, AI was built on a set of pre-programmed rules to optimize output and make predictions. Traditional AI tools were designed to support data-driven decision-making by predicting customer churn, optimizing pricing strategies, segmenting customers based on behavior, and forecasting sales. These AI applications have become essential in the modern marketer's toolkit, providing insights that drive strategic decisions and improve operational efficiency.

With the introduction of Deep Learning techniques in 2012 this began to change in areas like Computer Vision and Natural Language Processing. And even though these techniques didn't require pre-programming rules to make predictions they were still mostly limited to providing answers to the specific questions they were designed to address.

In contrast, generative AI learns patterns from vast amounts of data and uses this knowledge to generate original content, including text, images, audio, social posts and even code. This enables the creation of hyper-personalized content and ideas.

Key components of Generative AI include:

- Neural Networks: Complex algorithms inspired by human cognition, capable of learning and recognizing patterns.
- Large Language Models (LLMs): AI models trained on large volumes of text datasets, enabling them to respond to and generate text, and mimic human behaviour.
- Transformer Architecture: A type of neural network architecture that allows AI to amplify information that is most relevant to the question or task at hand, and diminish information that is less relevant, leading to more coherent and contextually relevant outputs.
- Training Data: Vast datasets that the AI learns from to generate new content.

Over time, Gen AI is expected to enable personalization at an unprecedented scale, generating tailored marketing messages for thousands of customers simultaneously. In the area of product innovation, Generative AI can suggest new ideas or features based on market trends and customer preferences. It can engage in creative ideation, brainstorming marketing campaign ideas, slogans, and even strategic direction.

The Evolution of AI in Marketing

This section offers a quick look at the adoption of AI in marketing:

1950s 1960s

Data analysis and customer segmentation: Early AI applications focused primarily on data analysis and customer segmentation, allowing businesses to make data-driven decisions and target relevant customer base more effectively. An early example of AI in marketing was using clustering algorithms to segment customers based on demographic information and purchase patterns. This allowed businesses to develop their marketing campaigns and strategy for specific customer groups.

1980s 1990s

Rule-based systems: Marketing automation began with simple if-then rules. For example, "If a customer hasn't purchased in 30 days, send a reminder email." Around this time, CRM systems started gaining popularity, enabling companies to manage and track customer interactions, and to more effectively analyze customer data.

2000s

Predictive analytics and recommendation systems: AI started to predict customer behavior based on historical data. This enabled more targeted marketing campaigns. For example, algorithms enabled businesses to identify patterns in customer behavior and relationships between products. These insights helped optimize marketing strategies and improve sales.

late 2000s

Programmatic Advertising: AI automated the buying and selling of ad space, optimizing ad campaigns in real-time. This allowed marketers to target specific audiences, change bids based on performance, and maximize their advertising budget. Google Ads, launched in 2000, has been a game-changer in programmatic advertising by allowing advertisers to automate ad placements, targeting, and bidding strategies, ensuring optimal results and maximizing ROI.

2010s

Machine Learning: AI systems began to learn from data without explicit programming, leading to more sophisticated personalization and recommendation systems. This substantially increased customer engagement and sales for online businesses. The major leap in the 2010s came from Deep Learning (a subset of machine learning) - a precursor of Generative AI.

2020s + beyond

Generative AI: AI can create original content, design creative assets, and even strategize marketing campaigns. AI-driven platforms use natural language processing (NLP) and machine learning algorithms to generate high-quality content, analyze existing content for improvements, and suggest optimization for headlines, meta tags, and keyword density for search engine optimization (SEO).

In the last few years, AI has made noteworthy strides in enhancing customer experience through chatbots and virtual assistants. These AI-powered tools can handle customer inquiries, provide product recommendations, and even process transactions, allowing businesses to offer 24/7 support and personalized assistance to their customers. An emerging trend is to enable these tools to interact with websites and other computer systems, creating agents that can complete tasks like updating websites, sending emails or completing other tasks without human intervention. Known as Agentic AI, these new generation of tools may significantly transform how we work.

By embracing AI as a powerful creative partner and leveraging its transformative potential, marketers can stay ahead of the curve in the industry and set up their businesses for success in the ever-changing digital world.

The Canadian Context: Current State of AI Adoption in Canadian Marketing

Canada is rapidly adopting AI across various sectors, including marketing. Canadian businesses are increasingly leveraging generative AI to enhance marketing strategies. From personalized content creation to customer engagement, AI-driven tools are revolutionizing how marketers connect and communicate with their audiences.

With a reputation for technological innovation gradually gaining momentum Canada holds the 14th position in the Global Innovation Index, 2024.[1]

Canadian marketers are implementing AI for advanced analytics, to improve understanding of market trends and consumer preferences. These insights facilitate more targeted and effective marketing campaigns, ultimately boosting ROI.[2]

In April 2024, Canada announced a $2.4 billion package (primarily focusing on AI computing and infrastructure capabilities) to secure the country's AI advantage.[3]

In addition, Canada became a signatory to the Bletchley Declaration (along with the US) at the AI Summit, 2023, UK, where 28 countries agreed to cooperate to identify AI safety risks and create risk-based AI policies.[4]

1 https://www.wipo.int/gii-ranking/en/rank
2 https://www.sciencedirect.com/science/article/pii/S0268401224000318
https://www.researchgate.net/publication/383847844_Leveraging_Artificial_Intelligence_for_Personalized_Marketing_Campaigns_to_Improve_Conversion_Rates
3 https://www.nasdaq.com/articles/trudeau-earmarks-c$2.4-billion-for-canadian-ai-innovation-in-2024-budget
4 https://www.gov.uk/government/publications/ai-safety-summit-2023-the-bletchley-declaration/the-bletchley-declaration-by-countries-attending-the-ai-safety-summit-1-2-november-2023

Canadian Public Policy Landscape

In November 2021, the Canadian government introduced Bill C-27 that would have created Canada's first federal law to regulate AI systems, AI and Data Act (AIDA). The proposed legislation would have required companies to disclose when and how AI systems were used, especially in decision-making, recommendation and prediction processes that affect consumers. It would also have required businesses to implement measures ensuring their AI systems were compliant with ethical guidelines and are free from bias. Under the proposed legislation, businesses could have been held responsible for adverse impacts caused by their AI systems.

With the prorogation of Parliament in early 2025, all active bills, including the proposed federal AI legislation, died on the Order Paper. If the government wants to pursue AI legislation when parliament resumes, it will have to start from scratch. Given the length of time the process takes, it is safe to assume that we will not have a federal AI law in the foreseeable future.

Value Proposition of AI for Marketers

AI offers transformative advantages for marketing professionals, fundamentally changing how campaigns are conceived, executed, and measured:

Accelerated time to market	AI tools dramatically compress production timelines for creative assets, market research, and campaign development. What once took weeks can now be accomplished in days or even hours, allowing marketers to respond more nimbly to market opportunities and competitive pressures.
Cost-efficient iteration	AI enables the rapid generation of multiple creative variations at minimal incremental cost. Rather than committing to a single approach, marketers can test numerous concepts, messages, and designs without the traditional resource constraints. This allows for data-driven refinement before full-scale deployment.
Expedited drafting capabilities	AI excels at producing initial drafts of marketing materials—from email copy to social media posts to presentation decks. While these drafts typically require human refinement, they provide a substantial head start, significantly reducing the time spent staring at blank pages.
Production cost reduction	By automating labor-intensive aspects of content creation, design work, and market analysis, AI can substantially lower production costs across the marketing function. This allows organizations to either reduce marketing expenditures or reallocate resources toward higher-value strategic activities.
Enhanced productivity	AI serves as a force multiplier for marketing teams, enabling individuals to accomplish more with less effort. Routine tasks that once consumed significant time—such as basic research, data visualization, formatting, and administrative work—can be largely automated, freeing marketers to focus on strategic thinking and creative direction.

Value Proposition of AI for Consumers

AI offers a myriad of benefits to consumers that will significantly enhance the overall customer experience.

Hyper-Personalization	AI analyzes user data that will significantly strengthen tailored experiences. This includes personalized product recommendations, as seen in Netflix's AI-driven system, which has increased user engagement by more than 10%. Content personalization can boost email open rates by up to 40%. It enables companies to create customized offers based on real-time shopping behavior.
Enhanced Customer Service	I-powered chatbots and virtual assistants provide 24/7 support, significantly improving service availability. AI's ability to access vast information repositories leads to faster issue resolution, with one study showing a 14% increase in hourly issue resolution and a 9% reduction in handling time. Moreover, AI ensures consistent service quality across all interactions.
Time and Effort Savings	AI streamlines the shopping experience through AI-powered search and filtering, automates routine tasks like appointment scheduling, and efficiently gathers and summarizes product information to aid decision-making.
Better Product Discovery	AI's complex pattern recognition capabilities introduce consumers to products they might not have found independently, considering factors like location, local deals, and local events, and highly relevant substitute/alternate products.
Seamless Omnichannel Experience	AI can ensure consistent interactions across all touchpoints, maintaining context awareness regardless of the channel used.
Proactive Customer Support	AI can anticipate customer needs and offer programmed assistance and problem-solving to enhance satisfaction.
Immersive and Interactive Experiences	AI powers virtual try-ons in retail stores and facilitates interactive product recommendation and customization, enhancing the overall shopping experience.
Product and Service Improvement	By constantly processing customer feedback and user data, AI can help in product improvement and refinement of services over time.
Personalized Learning and Onboarding	For complex products or services, GenAI can generate adaptive tutorials and provide interactive guidance, replacing static user manuals.

As AI continues to evolve, we can expect more innovative uses to further elevate consumer experience, making brand interactions more meaningful and engaging.

AI for Good

As AI technologies evolve, their potential to drive positive social impact becomes increasingly significant. Marketers can leverage AI to not only enhance business metrics but also contribute to broader societal goals. Here are some initiatives and practices that promote positive social impact:

1 Socially Conscious Campaigns

Marketers can use AI to develop campaigns that highlight social issues such as climate change, diversity and misinformation. AI tools can analyze large datasets from social media to identify trending social concerns, enabling brands to craft relevant and impactful messages.

2 Enhancing Accessibility

AI can be helpful for marketers in creating more inclusive marketing content. For instance, AI-driven platforms can generate content in multiple languages, provide captions for videos and create audio descriptions for images, ensuring content is accessible to a broader audience.

3 Philanthropic Initiatives

AI can identify charitable opportunities and optimize philanthropic campaigns. For example, AI can analyze community needs and predict the impact of donations, allowing brands to support causes that resonate with their audience and align with their values.

4 Community Engagement

Marketers can use AI to engage with communities and understand their needs and sentiments. AI-driven sentiment analysis tools can help marketers gauge public opinion and adjust campaigns to better align with the values and concerns of their audience.

Responsible AI

As the first AI applications emerged, there were multiple instances that ended up in international news due to results or behaviours that conflicted with ethical standards. Often, those ethical breaches were not caused intentionally but were due to blind spots in the existing governance practices—which had been created before AI tools existed.

The AI community has been working diligently to address these gaps in best-practices, which have been grouped under the "Responsible AI" label.

Dimensions & Definitions of Responsible AI

The HAI Stanford Business School AI Index 2024 Report highlights the following dimensions of Responsible AI:

Data Governance
Establishment of policies, procedures, and standards to ensure the quality, security, and ethical use of data, which is crucial for accurate, fair, and responsible AI operations particularly with sensitive or personally identifiable information.

Explainability
The capacity to comprehend and articulate the rationale behind AI decisions, emphasizing the importance of AI being not only transparent but also understandable to users and stakeholders.

Fairness
Creating algorithms that are equitable, avoiding bias or discrimination, and considering the diverse needs and circumstances of all stakeholders, thereby aligning with broader societal standards of equity.

Privacy
An individual's right to confidentiality, anonymity, and protection of their personal data, including the right to consent and be informed about data usage, coupled with an organization's responsibility to safeguard these rights when handling personal data.

Security & Safety
The integrity (and protection) of AI systems against threats, minimizing harms from misuse, and addressing inherent safety risks like reliability concerns and the potential dangers of advanced AI systems.

Transparency
Open sharing of development choices, including data sources and algorithmic decisions. As well as how AI systems are deployed, monitored and managed, covering both the creation and operational phases.

Reliability
Controls and processes to ensure that AI systems perform without acceptable performance parameters on an ongoing basis, and under a reasonable range of conditions.

Accountability
Organizational structures that facilitate clear allocation of responsibility over decisions made or supported by the system.

Sustainability
Mechanisms to assess and limit negative impacts over society and the environment originated in the use of AI.

Source: HAI Stanford Business School AI Index 2024 Report

AI Frameworks

AI frameworks function not just as technical guidelines, but they serve as essential roadmaps for navigating the ethical, legal, and operational challenges that come with AI adoption in marketing. Although most marketers do not directly engage with AI frameworks in the course of their routine and daily business activities, the knowledge of these frameworks helps marketers work collaboratively with their compliance and safety teams.

NIST AI Risk Management Framework

The US National Institute of Standards and Technology (NIST) published in January 2023 its NIST-AI-100-1, Artificial Intelligence Risk Management Framework, outlining best practices to mitigate risk inherent to AI.

On July 26, 2024, the National Institute of Standards and Technology released NIST-AI-600-1, *Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile*. This can help organizations identify unique risks posed by generative AI and propose actions for generative AI risk management that best align with their goals and priorities.

This framework was developed in collaboration with the private and public sectors, the National Institute of Standards and Technology to better manage risks to individuals, organizations, and society associated with Generative AI. It is intended for voluntary use and to improve the ability to incorporate trustworthiness considerations into the design, development, use, and evaluation of AI products, services, and systems.

Risk Management Profile for AI and Human Rights

The US Department of State released a "Risk Management Profile for Artificial Intelligence and Human Rights" (referred to in this document as the "Profile") as a practical guide for organizations—including governments, the private sector, and civil society—to design, develop, deploy, use, and govern AI in a manner consistent with respect for international human rights. The Profile aims to bridge the gap between human rights and risk management approaches, demonstrating how actions related to assessing, addressing, and mitigating human rights risks fit naturally into other risk management practices.

ISO Framework for AI Management Systems and AI Systems Using Machine Learning

ISO/IEC 42001[5] is the world's first AI management system standard, providing valuable guidance for this rapidly changing field of technology. It addresses the unique challenges AI poses, such as ethical considerations, transparency, and continuous learning. For organizations, it sets out a structured way to manage risks and opportunities associated with AI, balancing innovation with governance. This international standard specifies requirements for establishing, implementing, maintaining, and continually improving an Artificial Intelligence Management System (AIMS) within organizations. It is designed for entities providing or utilizing AI-based products or services, ensuring responsible development and use of AI systems.

This framework helps describe a generic AI system using machine learning technology along with describing the system components and their functions in the AI ecosystem.

Organizations of any size involved in developing, providing, or using AI-based products or services can follow these frameworks. It is applicable across all industries and relevant for public sector agencies as well as companies or non-profits.

Conclusion

As the marketing profession navigates the rapidly evolving landscape of AI in marketing, it is apparent that AI presents both unprecedented opportunities and significant challenges for Canadian marketers. This primer has explored the multifaceted aspects of AI adoption, from its transformative potential to the ethical considerations and regulatory frameworks that shape its implementation.

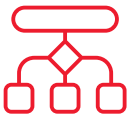
The Canadian context of AI landscape showcases a growing acceptance and use of these technologies, with initiatives like a dedicated a $2.4 billion package for AI and innovation, setting the stage for ethical and responsible use of AI.

Principles such as transparency, accountability, fairness, and human-centric design must be at the forefront of AI integration in marketing strategies. The integration of AI in marketing is not just about adopting new technologies; it's about reshaping our approach to automation, customer engagement, data analysis, and decision-making. This is discussed in detail in the CMA Guide on AI for Marketers.

Adoption and integration of AI in the life cycle of an organization's marketing activities would require rigorous testing, continuous monitoring, and the strategic implementation of human-in-the-loop processes. These practices not only mitigate risks but also enhance the effectiveness and trustworthiness of AI-driven marketing initiatives.

[5] https://www.iso.org/sectors/it-technologies/ai

To effectively integrate AI across the marketing lifecycle, marketers should consider the following structured approach:



Planning and Strategy Phase

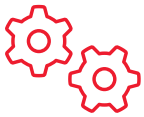
- Conduct an AI readiness assessment to identify opportunities, gaps, and organizational capabilities
- Define clear objectives and success metrics for AI initiatives
- Develop a data strategy addressing collection, quality, storage, and governance
- Establish ethical guidelines aligned with the CMA Guide on AI for Marketers
- Secure appropriate budget and executive sponsorship

Development and Testing Phase

- Select appropriate AI tools and vendors based on your specific needs
- Ensure data preparation meets quality and representativeness standards
- Test AI systems rigorously for bias, accuracy, and reliability
- Implement appropriate human oversight mechanisms
- Establish feedback loops for continuous improvement

Deployment and Measurement Phase

- Start with smaller, controlled implementations before scaling
- Monitor performance against established metrics
- Collect user feedback systematically
- Document learnings and adjust approaches as needed
- Maintain transparency with stakeholders about AI usage



Optimization and Evolution Phase

- Regularly audit AI systems for drift, bias, or performance degradation
- Update models with new data while preserving privacy safeguards
- Expand successful implementations to new channels or use cases
- Evaluate emerging AI capabilities for potential adoption
- Share success stories and best practices within your organization

By following this structured approach, marketers can systematically incorporate AI while maximizing benefits and minimizing risks. Refer to the comprehensive CMA Guide on AI for Marketers for detailed implementation protocols.

As we look to the future, Canadian marketers must remain agile and informed to keep up with the pace of the rapidly evolving regulatory landscape, new frameworks, and guidelines emerging both domestically and internationally, and an even faster pace of advancements and developments in AI technologies. Staying abreast of these developments and aligning AI practices with ethical standards will be crucial for maintaining consumer trust, brand reputation, and compliance.

By embracing ethical AI principles, maintaining human oversight, staying abreast with the new developments in the world of AI and continuously adapting to regulatory changes, Canadian marketers can harness the full potential of AI while upholding the values of transparency, fairness and accountability as a standard business practice.

The responsible and innovative use of AI will undoubtedly be a key differentiator in the competitive landscape. Marketers will be better able to navigate the challenges along the way by following the suggestions in the CMA Guide on AI for Marketers, which provides essential frameworks and protocols for responsible AI usage. Following the CMA guide will help ensure organizations meet significant compliance, ethical, and performance standards.

Appendix 1: International Initiatives: Responsible AI Principles

OECD AI Principles

The Organisation for Economic Co-operation and Development (OECD) has developed principles for responsible AI development and deployment, adopted by over 40 countries. The Principles were initially adopted in 2019 and updated in May 2024 in consideration to new technological and policy developments, ensuring they remain robust and fit for purpose.

The Principles were the first intergovernmental standard on AI and formed the basis for the G20's AI Principles.

The 5 key principles guide AI actors in their efforts to develop trustworthy AI.[6]

1. Inclusive growth, sustainable development and well-being highlights the potential for trustworthy AI to contribute to overall growth and prosperity for all – individuals, society, and planet – and advance global development objectives.

2. Human-centered values and fairness
AI systems should be designed in a way that respects the rule of law, human rights, democratic values and diversity, and should include appropriate safeguards to ensure a fair and just society.

3. Transparency and explainability is about transparency and responsible disclosure around AI systems to ensure that people understand when they are engaging with them and can challenge outcomes.

4. Robustness, security and safety
AI systems must function in a robust, secure and safe way throughout their lifetimes, and potential risks should be continually assessed and managed.

5. Accountability Organisations and individuals developing, deploying or operating AI systems should be held accountable for their proper functioning in line with the OECD's values-based principles for AI.

[6] https://oecd.ai/en/ai-principles

G20 AI Principles

As noted above, the G20 has developed principles for responsible AI development and deployment based on the OECD principles, emphasizing transparency, accountability, and fairness.

The G20 also provides recommendations for national policies and international cooperation:

- Investing in AI research and development: Governments should support long-term investment in AI R&D, including interdisciplinary efforts addressing technical, social, legal, and ethical implications.
- Fostering a digital ecosystem for AI: Promote the development of digital technologies, infrastructure, and mechanisms for sharing AI knowledge.
- Shaping an enabling policy environment for AI: Create policies that support the transition from R&D to deployment, including experimentation environments for testing AI systems.
- Building human capacity and preparing for labor market transformation: Equip people with the necessary skills to interact with AI systems and ensure a fair transition for workers as AI is deployed.
- International cooperation for trustworthy AI: Encourage collaboration among countries to advance these principles, share knowledge, and develop global technical standards for interoperable and trustworthy AI.

The G20 emphasizes the importance of multi-stakeholder involvement, including governments, businesses, academia, and civil society, in shaping AI policies. The principles aim to maximize the benefits of AI while addressing challenges such as privacy, security, and ethical concerns.

The document underscores the need for continuous monitoring and assessment of AI's impact on society and the economy. It also highlights the importance of considering the needs of developing countries and underrepresented populations in AI development and deployment.

By adopting these principles, the G20 aims to promote the development of trustworthy AI that contributes to sustainable and inclusive growth while respecting human rights and democratic values.

Implications for Marketers:

- Need for adherence to globally recognized AI principles in marketing practices
- Potential for harmonized AI regulations across G20 countries
- Emphasis on responsible AI use that respects human rights and democratic values

Appendix 2: Global Regulatory Initiatives

EU AI Act

On 1 August 2024, the European Artificial Intelligence Act (AI Act) entered into force. The Act aims to foster responsible AI development and deployment in the EU.

AI Act addresses potential risks to citizens' health, safety, and fundamental rights. It provides developers and deployers with clear requirements and obligations regarding specific uses of AI while reducing administrative and financial burdens for businesses.

The AI Act introduces a uniform framework across all EU countries, based on a forward-looking definition of AI and a risk-based approach:

- Minimal risk: most AI systems such as spam filters and AI-enabled video games face no obligation under the AI Act, but companies can voluntarily adopt additional codes of conduct.
- Specific transparency risk: systems like chatbots must inform users that they are interacting with a machine, while certain AI-generated content must be labelled/watermarked to indicate as such.
- High risk: high-risk AI systems such as AI-based medical software or AI systems used for recruitment must comply with strict requirements, including risk-mitigation systems, high-quality of data sets, clear user information, human oversight, etc.
- Unacceptable risk: for example, AI systems that allow "social scoring" by governments or companies are considered a clear threat to people's fundamental rights and are therefore banned.

For marketers, this means that a single set of rules will govern their AI-driven marketing activities across all EU member states. This consistency can streamline operations, reduce compliance costs, and enable marketers to focus more on creative and strategic aspects of their campaigns rather than navigating a maze of regulations.[7] This would require marking businesses to adapt their strategies and processes as reviewing and updating AI systems, training and educating their team about data privacy, ethical AI practices, and compliance procedures and incorporating AI governance.

[7] https://www.linkedin.com/pulse/why-eu-ai-act-matters-digital-marketers-dr-sutta-peter-sornmayura-6xyzc/

US AI Bill of Rights

Currently, there are no comprehensive federal laws or regulations in the US that regulate the development of AI or specifically prohibit or restrict its use. However, there are several federal and state legislation that deal with aspects of AI.

Since 2018, the number of AI-related bills proposed and enacted in state legislation has grown. In the coming years, state policymakers can expect to see this trend continue with proposed US state AI laws mostly targeting AI developers. States such as California, Colorado and Virginia have laid the groundwork for establishing AI-related data privacy laws as well as measures aimed at enforcing these laws.[8]

Over the past five years, 17 states have enacted 29 bills that focus on AI regulation aligned with these principles. Of these bills, 12 have focused on ensuring data privacy and accountability. This legislation hails from California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Louisiana, Maryland, Montana, New York, Oregon, Tennessee, Texas, Vermont, Virginia and Washington.[9]

California and Colorado are the leading states with two AI laws each, both with AI provisions embedded in the broader data privacy laws they've passed as well as in stand-alone laws. The 2018 California consumer privacy law was the first comprehensive data privacy law enacted in the United States, including a provision that regulates companies' use of AI in profiling by allowing consumers to opt out of automated decision-making systems analyzing their personal data.

California's Bolstering Online Transparency Act, of 2018, prohibits companies from using an AI bot to incentivize a sale or transaction of goods or services. Colorado's privacy law, includes an opt-out provision that is similar to California's privacy law.

Colorado also has an insurance-specific law that regulates companies against using AI in a manner that would discriminate in coverage decisions.

Georgia, Maine, Maryland, Massachusetts, Pennsylvania, South Carolina, Vermont and Washington are among the states with AI profiling bills pending. A proposed bill in New Mexico would regulate the profiling of children.[10]

In the spirit of developing an overarching framework, the Blueprint for an AI Bill of Rights was introduced by the White House (created by Office of Science and Technology Policy (OSTP)) in October of 2022. As of now, it is a set of suggestions, not enforceable law.

The Blueprint for an AI Bill of Rights acts as guidance around equitable access and use of AI systems. The AI Bill of Rights provides five principles and associated practices to help guide the design, use and deployment of "automated systems" including safe and effective systems, algorithmic discrimination and protection, data privacy, notice and explanation and human alternatives, consideration and fallbacks.

[8] https://www.csg.org/2023/12/06/artificial-intelligence-in-the-states-emerging-legislation/
[9] https://epic.org/the-state-of-state-ai-laws-2023/
[10] https://www.legaldive.com/news/16-states-have-ai-laws-curb-profiling-BCLP-interactive-compilation-state-AI-laws/710878/#:~:text=About%20a%20third%20of%20states,use%20of%20AI%20in%20profiling

Each principle provides examples and practical steps companies, governments and other organizations can follow in order to incorporate these protections into their own policies and practices, as well as guidelines for the overall design of the technology.

Safe and Effective Systems: This principle emphasizes the right to protection from unsafe or ineffective automated systems. It advocates for diverse expert involvement in AI development, rigorous testing, risk assessment, and ongoing monitoring. Transparency is crucial, with public disclosure of safety and effectiveness evaluations.

Algorithmic Discrimination: Recognizing the potential for AI to perpetuate or amplify biases, this principle calls for proactive measures to ensure fairness. It recommends equity assessments, use of representative data, accessibility considerations, bias testing, and clear organizational oversight. Evaluations should be presented in an understandable manner to ensure accountability.

Data Privacy: This principle asserts individuals' right to control their personal data. It emphasizes the need for clear consent processes and respect for user preferences in data collection and usage. Enhanced protections are recommended for sensitive areas like health and finance. The principle also cautions against continuous surveillance in educational, work, and housing contexts.

Notice and Explanations: Users should be informed when automated systems are being used in ways that affect them. This includes clear, timely, and accessible explanations of how systems work, the role of automation, decision rationales, and accountability structures. Users should be notified of significant changes in system usage.

Human Alternatives, Consideration, and Fallback: Where appropriate, users should have the option to opt out of automated systems in favor of human alternatives. The principle also emphasizes the importance of timely human intervention in cases of system failure or contested outcomes. This process should be accessible, equitable, and not unduly burdensome for users.

Additionally, in 2016, the US Federal Trade Commission (FTC) issued a report titled Big Data: A Tool for Inclusion or Exclusion?, which advised companies using big data analytics and machine learning to reduce the opportunity for bias. The FTC's law enforcement actions, studies, and guidance emphasize that the use of AI tools should be transparent, explainable, fair, and empirically sound while fostering accountability.

Marketers are advised to speak with their legal teams and keep track of various regulatory developments that occur in relevant jurisdictions.[11]

[11] https://www.bclplaw.com/en-US/events-insights-news/us-state-by-state-artificial-intelligence-legislation-snapshot.html

UK Approach

The UK prioritizes a flexible framework over comprehensive regulation and emphasizes sector-specific laws. The UK's government consultations indicate that the UK does not intend to enact horizontal AI regulation in the near future. Instead, a White Paper and the Response that were a part of the consultative process, act as a "principles-based framework" for AI regulation in the UK for existing sector-specific regulators to interpret and apply to the development and use of AI within their domains.

The UK considers that a non-statutory approach to the application of the framework offers "critical adaptability" that keeps pace with rapid and uncertain advances in AI technology. However, the UK may choose to introduce a statutory duty on regulators to have "due regard" to the application of the principles after reviewing the initial period of their non-statutory implementation.

The White Paper establishes five cross-sectoral principles for existing regulators to interpret and apply within their respective domains:

1. **Principle 1:** Regulators should ensure that AI systems function in a robust, secure, and safe way throughout the AI life cycle, and that risks are continually identified, assessed and managed.

2. **Principle 2:** Regulators should ensure that AI systems are appropriately transparent and explainable.

3. **Principle 3:** Regulators should ensure that AI systems are fair (i.e., they do not undermine the legal rights of individuals or organizations, discriminate unfairly against individuals, or create unfair market outcomes)

4. **Principle 4:** Regulators should ensure there are governance measures in place to allow for effective oversight of the supply and use of AI systems, with clear lines of accountability across the AI life cycle.

5. **Principle 5:** Regulators should ensure that users, impacted third parties and actors in the AI life cycle are able to contest an AI decision or outcome that is harmful or creates a material risk of harm, and access suitable redress.

The UK Government's Office for Artificial Intelligence oversees the implementation of the UK's National AI Strategy and performs various functions to support the framework's implementation such as:

(i) monitoring and evaluating the overall efficacy of the regulatory framework
(ii) assessing and monitoring risks across the economy arising from AI and
(iii) promoting interoperability with international regulatory frameworks.

The UK also announced the Digital Information and Smart Data Bill which is intended to reform existing data-related laws to support the safe development and deployment of new technologies (which may include AI). Guidelines on its implementation are not yet certain.

In February 2024, the UK government wrote to several regulators whose work is impacted by AI, asking them to publish an update outlining their strategic approach to AI. The subsequent responses from the regulators contained (among other things) plans on regulating AI, actions they have already taken, and expressed their support and adherence to the White Paper's five principles.

On July 26, 2024, the UK commissioned an "AI Action Plan" to leverage AI for economic growth and improved public services. This plan will evaluate the UK's infrastructure needs, attract top AI talent, and promote AI adoption across the public and private sectors. This is intended to be a consultative process with feedback to be gathered from academics, businesses, and civil society to create a comprehensive strategy for AI sector growth and integration. Basis the recommendations are expected towards the end of 2024, the plan is to establish an "AI Opportunities Unit" to implement these recommendations.

Recently, on September 5, 2024, the UK also became a signatory to the Council of Europe's Framework Convention on AI.

Latin America

In the global race for the regulation of AI, Latin America is at an early stage, with countries such as Argentina, Brazil, Colombia, Chile and Mexico facing challenges and seeking to define their political agendas in this nascent field. Among these Latin American nations, Brazil stands out as a leader with regulatory maturity in the region.

Brazil
The Brazilian government has two main strategies for digital transformation and AI.

- Brazilian Digital Transformation Strategy (E-Digital), established in 2018: aims to promote the digitalization of the economy through objectives, actions, and projects. The 2022-2026 period focuses on "Enabling Axes" like infrastructure, research and development, trust in the digital environment, education and training, and international cooperation. It also has "Digital Transformation Axes" to promote the adoption of digital tools in government and economic activities.

- Brazilian Strategy for Artificial Intelligence (EBIA), launched in 2021: guides the government's actions towards developing AI solutions and their ethical use. EBIA has nine thematic axes divided into cross-cutting areas like legislation, AI governance, and international aspects, as well as vertical areas like education, workforce and training, entrepreneurship, and applications in several sectors. EBIA recognizes AI's potential to transform industries and the need for Brazil to remain competitive globally.

Argentina
In 2023, a few draft laws were introduced to Argentina's National Congress to regulate AI. The three draft laws are as follows:

- Draft Law 2505-D-2023 titled "Legal framework for the regulation of the development and use of Artificial Intelligence" is aimed to establish frameworks, promote ethical development, protect human rights, transparency and accountability, and foster innovation in AI.

- Draft law 1472-D-2022 which proposes amending the Law on Science, Technology, and Innovation to incorporate AI systems based on ethical principles such as diversity, inclusion, peace, and justice.

- Draft Law 3161-D-2023 which proposes creating a "Federal Council of Artificial Intelligence" as an advisory body made up of public officials to promote research, ethics, and awareness around AI.

Argentina also proposed The National Artificial Intelligence Plan in December 2019, which aims to maximize the economic impact and growth of the country through the development and adoption of AI. Its goals are to promote inclusive and sustainable AI, minimize risks related to personal data and privacy, encourage AI talent development, and promote federal articulation around AI among government agencies.

The Plan outlines strategic avenues such as financing, regulations and ethics, communication and awareness, research and development, and public-private convergence among others.

Colombia
At the end of 2019, the National Policy for Digital Transformation and Artificial Intelligence was introduced in Colombia. In November 2020, the "Task Force for the Development and Implementation of Artificial Intelligence in Colombia" was published establishing "mechanisms for the implementation of emerging technologies in the private sector and pursuing cooperation between these sectors both nationally and internationally."[12]

Mexico
In Feb 2024, the government introduced a bill titled "Federal Law Regulating Artificial Intelligence".[13]

- The bill has an extraterritorial effect which means the law would apply even to providers of Artificial Intelligence Systems (AIS) located abroad that offer services in Mexico or whose information generated is used in Mexico.

- The Federal Telecommunications Institute will be the regulator in charge of authorizing AIS providers. The bill also proposes the creation of a National Artificial Intelligence Commission, as an advisory body to the IFT, which will be formed by scientists and experts in the field.

- The bill proposes to classify AIS according to the risks they may trigger, akin to the European Union (EU) AI regulation. The risk classifications proposed are: Unacceptable Risk, High Risk and Low Risk. Each classification will have certain particularities.

[12] https://www.techpolicy.press/mapping-artificial-intelligence-regulation-in-latin-america/
[13] https://digitalpolicyalert.org/event/18803-introduced-artificial-intelligence-regulatory-framework-inluding-testing-requirement-policy

- Prior authorization from the IFT will be required to offer AIS in Mexico, even in those cases where AIS is offered free of charge.

- The bill establishes as a penalty for non-compliance up to 10% of the annual income of the infringing entities.

Chile

Chile is the first country in Latin America to regulate AI. For this purpose, Chile has chosen to follow the EU approach of establishing a risk-based regime.

In May 2024, Chile introduced a bill of law to regulate AI. The intent and purpose of the bill is to promote creation, development, innovation, and deployment of AI systems.[14] It lists requirements and obligations for AI developers and deployers regarding specific uses of AI.[15]

The proposed regulation shall apply to:

1. Suppliers that introduce AI systems into the Chilean market or into service in the national territory.
2. AI deployers domiciled in Chile.
3. AI suppliers and developers of AI systems domiciled abroad when the information generated by the AI system is used in Chile.
4. Importers and distributors of AI systems, as well as authorized representatives of AI system suppliers domiciled in Chile.

The bill does not apply to AI systems developed and used for national defense purposes; research, testing and development of activities on AI systems prior to their introduction to the market or their release into service; and AI components provided under open-source licenses.

The bill defines four levels of risk for AI systems:

1. Unacceptable (Subliminal manipulative systems, AI that exploit people's vulnerabilities to generate harmful behaviors, biometric categorization systems based on sensitive data, social classification based on social behavior, remote biometric identification in public spaces and in real-time; systems for the non-selective extraction of facial images; and to evaluate people´s emotions.)
2. High,
3. Limited, and
4. No clear risk.

Enforcement of this regulation is the responsibility of the Data Protection Agency. However, the data protection regulation that creates such an Agency is still in Congress and once approved will not come into effect for a period of one year. Finally, infringements are classified as very severe, severe, and minor, and fines are up to US $ 1,400,000.

[14] Chile launches a national AI policy and introduces an AI bill following UNESCO's recommendations | UNESCO
[15] https://eurocloud.org/news/article/chile-stares-eu-a-bill-of-law-to-regulate-ai/

About CMA Guides and Tools

Marketers need to have a broad skill set that includes knowledge of marketing compliance and best practices. The CMA and its members recognize that complying with all relevant laws and maintaining high standards of practice is a fundamental responsibility to the public, critical to the reputation of the marketing profession, and the foundation for a successful and strong business community.

The CMA is the leader in providing legislative and regulatory guidelines and articulating best practices for the marketing profession in Canada. We provide educational resources to maintain and strengthen the professionalism and integrity of the marketing community. Our Canadian Marketing Code of Ethics and Standards is widely recognized as a benchmark for effective self-regulation and is updated annually.

The Canadian Marketing Code of Ethics and Standards and related Compliance and Best Practices Guides do not purport to replace legal advice or guidance.

For more information, contact the CMA at advocacy@thecma.ca.

Special thanks to the CMA's AI Committee for their work in creating this Primer, and to the globally renowned Toronto-based Vector Institute, for reviewing this Primer and providing valuable feedback.

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