intelligencebank

2024 Higher Education
Marketing Compliance Guide

Threats, trends and solutions

Contents

Executive Summary

Gaining market share and brand prominence within the higher education sector is no simple task. Marketing budgets are skyrocketing, competition for students is ferocious and acquisition is increasingly global. With tens of thousands of post secondary institutions and courses available worldwide, attracting and retaining enrollments is as crucial as it is challenging.

It's no revelation that advertising spend is surging.

A recent Hechinger Report revealed that Stanford University's ad spend of $10.3 million dollars was quite small in comparison to that of Southern New Hampshire University, which spent a staggering $144 million on advertising and promotion in a single year.

This trend has led to a rise in the number and speed at which creative assets are now generated to feed the machine. Without fail save processes, this leaves institutions wide open to marketing compliance oversights.

Adding to the challenge is a multitude of marketing compliance requirements designed to protect students as consumers. Among other things, these regulations safeguard against misrepresentation in statements about information such as fees, course structure, or employability. While that doesn't mean creativity is out the window, it does mean laws set by the Federal Trade Commission (FTC), Department of Education (ED), Canada's Competition Bureau (CCB), the Office for Students (OfS) in the UK, the Australian Competition and Consumer Commission (ACCC) in Australia and others, not only apply - they're also enforced with harsh financial penalties.

This report aims to help higher education sector marketers find smarter ways of getting high–impact content to market while achieving and maintaining legal and regulatory compliance.

Trust is at the core of any higher education purchase. So, while increased competition from new entrants into the sector is a threat, the fallout from recent action taken by regulators should be a much greater concern.

Disclaimer: This document is not intended as a substitute for legal or regulatory advice. This report has been prepared using both public and private data by IntelligenceBank, a provider of software that helps companies stay on brand and adhere to regulatory compliance. Companies should seek professional legal and regulatory advice when establishing internal compliance protocols.

9 Critical Higher Education Marketing Compliance Trends & Threats

Due to increased competition and globalization in for-profit education, federal regulators have stepped up their commitment to delivering relief to students affected by deceptive practices. Particular scrutiny is paid to how institutions advertise fees, course structure and delivery, exchange programs, associations and career prospects. Harsh penalties have been imposed on both institutions and key executives.

01

Massive Penalties for Deceptive Advertising and Marketing Practices: For years, the U.S. federal government has levied hefty fines against various for-profit education institutions for a wide variety of false advertising claims. In 2022, a General Accounting Office (GAO) investigation found that 91% percent of colleges and universities misrepresented their expected cost of attendance. The trend continues, as in late 2023, the ED issued a $37.7 million fine against Grand Canyon University over deceptive advertising. This was followed by an FTC lawsuit against the university alleging deceptive advertising and illegal telemarketing practices. The gist of the complaints are around GCU of misleading prospective doctoral students regarding program costs and requirements, falsely representing itself as a nonprofit, and engaging in abusive telemarketing tactics. The university is appealing[1].

02

Non-Profit Universities Under Watch: While most federal activity in the university sector has targeted for-profit universities, the ED recently demonstrated that its scope is not limited to such institutions. In 2023, the ED opened an investigation into Baker College, a large nonprofit school in Michigan, over its "recruitment and marketing practices." This comes after ProPublica and the Detroit Free Press found that Baker College spent more on marketing than it did on financial aid[2].

04

New ED 'Gainful Employment Rule' Starts to Bite: In 2021, the FTC put 70 higher education institutions on notice that the agency would crack down on any false promises they make about their graduates' job and earnings prospects and would hit violators with significant financial penalties. Subsequently, in October 2023, the ED published its new rule on gainful employment, which is designed to protect students attending career training programs from assuming too much student debt. This is paired with a financial value transparency (FVT) framework designed to provide useful information about the true cost of postsecondary educational programs. The message to higher-ed marketers: be extremely careful about what you publish as it relates to degree outcomes[4].

03

Canada's Expansion of Misleading Advertising Litigation: The Canadian government is set to introduce amendments to its Competition Act early 2024. One of the most significant proposals is the expansion of private parties rights of action in relation to misleading marketing practices. This means private individuals will be able to sue for financial penalties and awards. This has wide implications for students and colleges[3].

05

Globalization Requires Understanding of Local Laws: While online course content reaches a global audience, claims around specific outcomes in diverse markets must be closely monitored along with other advertising compliance standards within each market.

06

Colleges Continue to Self-Regulate: For decades, the U.S. News and World Report's college rankings have been a primary recruiting tool for universities. Over the past three years, however, several private investigations revealing false claims have spelled disastrous PR for a number of institutions – as well as numerous private lawsuits. For 2024, U.S. News has responded by tweaking its methodologies. Amidst calls for what is likely an inevitable federal inquiry, many institutions have pulled out of the process altogether, including dozens of law schools, medical schools and several elite and Ivy League institutions, including Yale and Harvard. Higher ed marketers whose schools still participate may want to think long and hard about whether disclaimers are advisable when using rankings in marketing materials[5].

07

Authenticity of Partnerships and Prospects Continue to be Tested: Back in 2019, the FTC brought a $200 million case against the University of Phoenix for misleading prospective students through false representations regarding corporate partnerships and employment prospects. The university's advertisements were found to have falsely claimed that partnerships with renowned companies would benefit student job opportunities. Fast forward to 2023, and long-over investigation continues to haunt the institution. The administration approved $37 million in borrower defense discharges for over 1,200 students who attended the University of Phoenix – keeping the issue and the bad press in the news. Similarly, in 2023, Sollers College was ordered to cancel $3.4 million in student debt to resolve separate charges brought by the FTC and the state of New Jersey that said the companies lured prospective students to enroll by falsely touting their job-placement rates and that their relationships with prominent companies would lead to jobs after students graduate.

08

B.C's Crackdown on Misleading International Students: The Private Training Institutions Branch (PTIB) is responsible for British Columbia's private post-secondary institutions. It recently investigated two colleges in relation to communication targeted to international students. They claimed the colleges, and the immigration agents paid by them, misled international students with the dubious information regarding course structure and the prospect of jobs and residency. In January 2024, the province's Minister of Post-Secondary Education and Future Skills announced enhanced safeguards to end exploitative practices and improve the experience for international students[6].

09

Changing Accreditation Rules Affect Existing Course Structures: Mislabeling courses as accredited when they are not continues to be a global issue. Australia's James Cook University faces a class action from students who claim their financial advising major was falsely advertised as accredited. Despite completing the course, students found it had become unaccredited, jeopardizing their career prospects due to lacking industry-standard qualifications[7].

How Higher Education Firms Achieve & Demonstrate Marketing Compliance

The risk of falling foul of regulation is simply too great to manage your marketing content inventory via a spreadsheet while remaining compliant and productive.

Using a system of record like IntelligenceBank, higher educational institutions can demonstrate marketing compliance through a combination of proactive approval measures, content automation and reporting.

These are some of the ways IntelligenceBank's higher education provider clients use IntelligenceBank to help ensure marketing compliance

Automating and Standardizing Disclaimers

IntelligenceBank's Disclaimer Engine reduces the risk associated with marketing errors by standardizing legally approved disclaimer language. This tool enables the generation of legally approved disclaimers, aligning with criteria established in collaboration with your Legal team.

- Eliminate the need for individual Legal review and approval of disclaimers for each creative asset; instead, gain efficiency by approving disclaimer rules at the commencement of a campaign.

- Enhance production speed by automatically incorporating disclaimers into every artwork piece within a campaign.

- Establish a comprehensive database of approved disclaimers and employ Creative Templates to swiftly integrate disclaimers into creative content.

- Address space constraints on digital banners with ease.

- Establish rules that automatically adapt the length of a disclaimer based on the channel in which it will be utilized.

IntelligenceBank knows compliance. Over the past 12 months, IntelligenceBank customers in 55 countries – many of them in highly regulated industries — uploaded more than 2 million assets. 99.6k creative briefs were submitted and approved.

Tracking Critical Content Reviews and Updates

The Content & Collateral Tracker ensures critical information – pricing, product information, interest rates and more – are updated regularly and do not pose a compliance threat.

This tool make it easy to assign webpages, documents, promotional material and other assets to specific reviewers, set review cycles, and get alerted when a review is due. Marketers can then collaborate with colleagues to make changes and upload the latest approved version to be reviewed again. A dashboard empowers team members to monitor progress and activity.

Here's how it works:

- Each asset is named and tagged with a review cycle time period (eg 30/60/365 days)
- 30 days before each asset is up for review, an email alert is sent
- The asset is reviewed and shared with other collaborators for input
- Updates are made and the version is approved
- The asset is then updated in the IntelligenceBank Digital Asset Management (DAM) system as a new version of the asset and a new review cycle is started
- A full record of the asset review and approval is kept for future reference, especially if audited

Review Status

Completed

Review Cycle

90
Days

Reviewer: **Jen Delgado**

Reviewer Completion Date: **9 July 2023**

Review Completion Statement: I acknowledge I have reviewed the assets according to compliance requirements

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Streamlined Content Approval Workflows

All too often, content that requires approval – especially from legal or compliance teams – ends up in email or other tools. Highly productive and compliant teams use a streamlined approval process such as the one in IntelligenceBank.

Customers using the workflow approvals tool are empowered to streamline their processes and gain enhanced visibility throughout the approval lifecycle. By transitioning creative approval requests away from email and onto a dedicated platform, users maintain a comprehensive record of all actions taken. The platform allows customers to configure approval workflows to align with their unique needs, supporting single, multi-stage, or conditional approvals.

Automation capabilities enable the implementation of workflows based on personalized conditions such as campaign type, stage, budget, or risk level. Users can customize approver roles and timelines, ensuring flexibility and control.

Access to approval history for any asset is simplified, eliminating the need to search through old emails. With a detailed record at their fingertips, customers can confidently review approver details, comments, and approval dates for any asset or brief. This approach not only expedites the approval process but also provides insights into potential bottlenecks.

Constant monitoring of individual and team performance, coupled with detailed reports, empowers users to identify and address issues efficiently while recognizing top performers.

The need for a centralized automated content workflow at the University of Arizona was great.

> **Our campus partners are asking how they can join the DAM rather than us having to sell the DAM as a solution to them.**
>
> Garrett Flora | Application Analyst, Developer

Maintaining Auditible Activity Visibility and History

Maintaining an audit trail is essential – and something that is nearly impossible to do in a spreadsheet or multiple systems you might use for asset storage, workflow and creative development.

IntelligenceBank maintains a complete audit trail of actions within the platform marketers use for workflow, markup, revision history, approvals, distribution and more, helping teams easily comply with banking and advertising regulatory requirements.

In addition, customers using IntelligenceBank's Smart Reports can also easily use dashboards to get granular insight into:

- How many assets or briefs require approval or review at any time
- Speed to approval by request type and resource
- Overdue approvals
- Creative briefs not approved or approved briefs with no related, approved assets.

Such insights make it possible to remove blockers, optimize slow processes and also praise colleagues who are helping their peers get content out the door fast – legal and brand approved.

Standardized Creative Templates

Due to compliance concerns, higher education sector marketers work with more guardrails than marketers in most industries. This can lead to decreased productivity. That's why most IntelligenceBank customers use standardized creative templates.

Empowering users to produce brand-approved content at scale, the standardized content templates offer a streamlined process for creating multiple variations of assets. With the ability to automatically integrate disclaimers, approved imagery, product names, and locations into collateral through user-friendly drop-down lists, customers gain enhanced visibility and control over the content production process.

In addition, the product enables a broad spectrum of individuals to become content creators. Users can create templates, determine editable elements, and establish locked-down components, allowing anyone to generate their own brand-approved assets. This approach democratizes content creation, fostering a sense of empowerment among diverse users.

By facilitating small-scale design edits for a wider audience, the product provides more time for creative professionals to focus on impactful and meaningful work. This shift away from repetitive and time-consuming tasks allows the creative team to dedicate their efforts to endeavors that hold the utmost significance.

> **The Brandhub communicates to our users the functionality of our template system and visual accessibility requirements. The Chisholm logo suite is readily available as well as the templates and imagery library.**
>
> Perry Reynolds | Design Lead

Using AI to Help Manage Talent or Content Usage Expiration Rights

An important aspect of higher education marketing is keeping on top of talent usage in all content. This includes students, teaching staff and alumni. Ensuring 'unpaid' talent rights are sought and updated are as important as paid talent rights. This also applies to senior lecturers or executives featured in marketing content that may have left the organization.

Using AI facial recognition technology embedded into the same platform you use for asset storage, marketing workflow and approvals (such as IntelligenceBank) can save untold hours

For example, imagine a team member needs to explore whether an individual or a license image has been used across various mediums such as web pages, videos on various social platforms and more. A manual search might take hours or days. However, using object recognition tags and face recognition tags (auto-tagged using AI upon upload) makes the process of locating those assets incredibly easy.
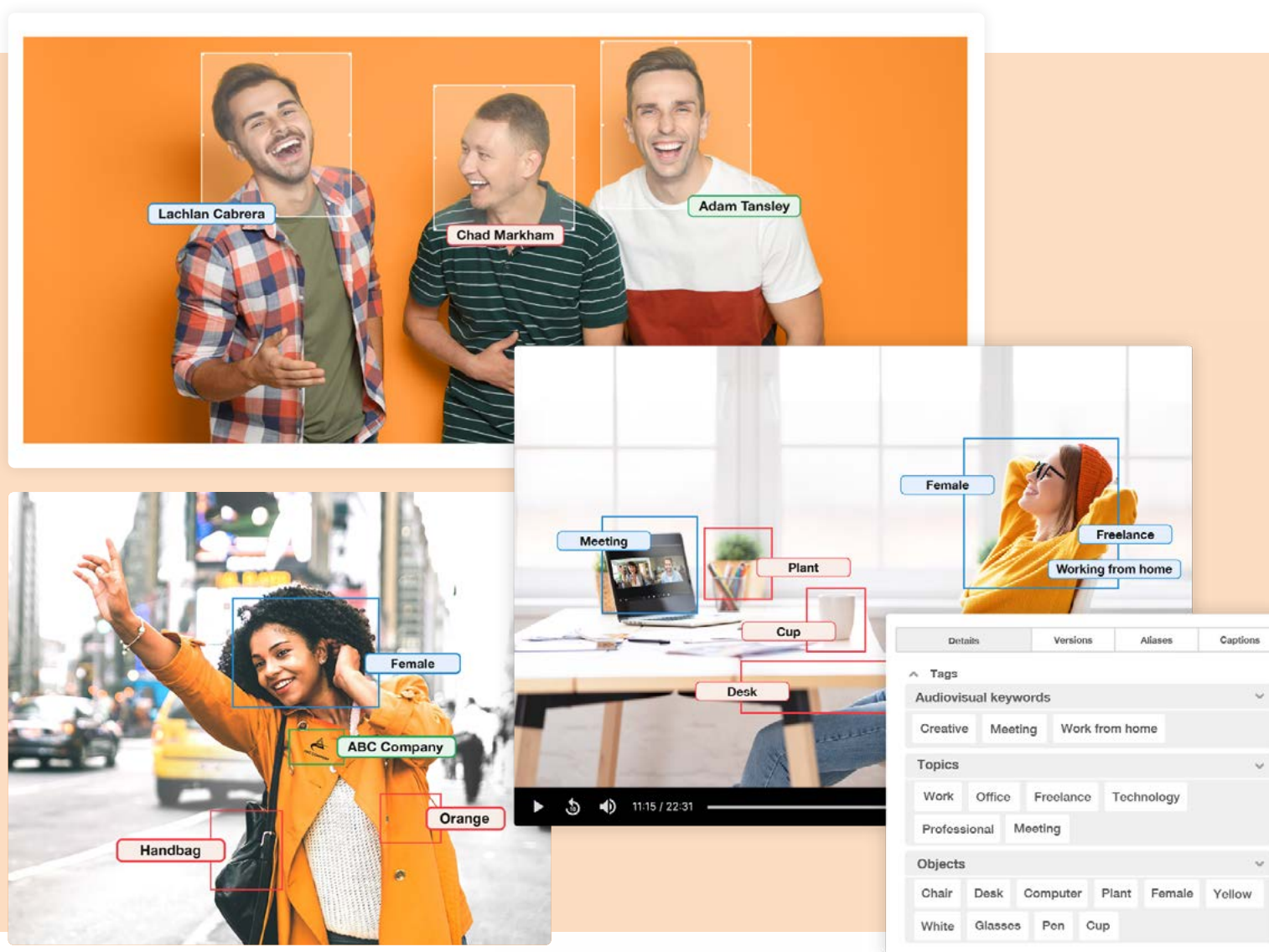
Marketing Compliance Overview

Promoting educational offerings demands a keen awareness of regional regulations. Marketers in higher education are bound by stringent rules imposed by governmental agencies and regulatory bodies. These regulations are designed to uphold ethical standards, ensure transparency, and safeguard the integrity of academic institutions.

While this list is not exhaustive, here are some fundamental aspects that higher education marketing leaders should prioritize.

Compliance for Student Protection

■ Compliance in higher education marketing is essential to ensure promotional materials are accurate, transparent, and don't mislead students. This is vital for protecting students from making uninformed decisions that could negatively affect their academic and professional outcomes.

Establishing Trust and Reputation:

■ Education is a big investment of time and money, so trust is paramount. Adherence to marketing regulations helps build trust with students, parents, and the wider community.

Risk Management:

■ Non-compliance poses significant risks to educational institutions, including multimillion dollar legal liabilities and reputational damage. Implementing robust marketing compliance measures enables universities and colleges to identify and mitigate these risks.

Navigating Regulatory Complexity:

- Higher education marketers often operate in diverse regulatory markets, each with its specific requirements. Ensuring compliance with both global and local standards and regulations is essential for the seamless delivery of educational services across different jurisdictions.

Adapting to Regulatory Changes:

- Educational regulations undergo continuous evolution. Keeping abreast of regulatory updates and adjusting marketing strategies and materials accordingly is critical to ensure ongoing compliance and regulatory alignment.

Regulating Agency Resources and Guidelines for Higher Education Marketers

There are many regulations global higher education sector marketers may want to become familiar with. Below are key regulatory bodies and resources for higher education marketers to consider, depending on where you operate.

For the sake of accuracy, this report links to each agency's explanation.

United States:

- **Department of Education (ED):** Responsible for overseeing federal education programs and enforcing regulations related to educational institutions' marketing and recruitment practices.

  - ED's Federal Student Aid (FSA) Office: Provides resources and guidelines for institutions participating in federal student aid programs, including rules on advertising and recruiting practices.

- **Federal Trade Commission (FTC):** Enforces regulations pertaining to advertising and marketing practices, including those relevant to educational institutions and student recruitment.

  - FTC's Division of Consumer and Business Education: Offers guidance on truth in advertising and consumer protection laws applicable to educational institutions.

- **Council for Higher Education Accreditation (CHEA):** Recognizes accrediting organizations to ensure quality in higher education and provides news and resources on accreditation standards and compliance.

  - CHEA's Database of Accredited Institutions and Programs: Offers information on accredited institutions and programs, helping marketers ensure compliance with accreditation requirements.

Canada:

- **Canada's Competition Bureau:** Ensures compliance with competition laws, including advertising and marketing practices within the education sector.

- **Canadian Bureau for International Education (CBIE):** Facilitates the internationalization of education in Canada and offers resources for marketing and recruitment strategies.

European Union:

■ European Commission Directorate-General for Education, Youth, Sport, and Culture: Develops policies and regulations concerning education and provides guidance on marketing practices within the EU educational context.

- Directorate-General's Erasmus+ Programme: Offers resources and guidelines for institutions participating in the Erasmus+ program, including marketing and communication guidelines.

■ European Association for Quality Assurance in Higher Education (ENQA): Works to enhance the quality of higher education in Europe by providing guidelines and standards for quality assurance.

- ENQA's Quality Assurance Handbook: Offers guidance on quality assurance processes, including aspects relevant to marketing and recruitment.

United Kingdom:

■ Office for Students (OfS): Regulates higher education providers in England, ensuring quality, accountability, and student protection. It offers guidance on marketing and recruitment practices.

- OfS's Regulatory Framework: Outlines requirements and expectations for registered providers, including rules on advertising, marketing, and student recruitment.

■ Advertising Standards Authority (ASA): Regulates advertising across various sectors, including education, ensuring advertisements are legal, decent, honest, and truthful.

- ASA's Education Sector Guidance: Provides specific guidance on advertising and marketing practices in the education sector, including higher education.

Australia:

■ Tertiary Education Quality and Standards Agency (TEQSA): TEQSA regulates advertising by higher education providers to ensure that it is accurate, transparent, and not misleading.

■ The Australian Competition and Consumer Commission (ACCC): The ACCC is responsible for enforcing consumer protection laws in Australia, including those related to false or misleading advertising.

■ The Department of Education, Skills and Employment (DESE): DESE oversees various aspects of the education sector, including policies related to fair and ethical marketing and advertising.

■ Code of Ethics for Registered Training Organisations (RTOs): The Code of Ethics for the VET sector and RTOs outlines principles and standards for marketing and advertising.

■ State and Territory Consumer Protection Authorities: Each state and territory has its own consumer protection authority that enforces consumer laws, including those related to advertising

Disclaimer: this list is not exhaustive and is intended as a helpful guide only.

References

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Thank you

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