

Guide for Using AI Tools Compliantly

As a KW® associate, we understand that you're always looking for new ways to make your listings shine, and artificial intelligence (AI) can help you do just that. From generating catchy property descriptions to helping you create marketing material to promote your listings, AI can be a game-changer for your business. However, with great power comes even greater responsibility, and using AI to generate marketing materials intended for the general consumer public means you also need to be mindful of some important legal, regulatory, and ethical considerations. That's why, in conjunction with the launch of our flagship enterprise relationship with Canva, we've prepared a best practices guide to help you confidently leverage the power of AI when creating marketing materials while helping ensure you stay compliant.

1. Check for Accuracy and Misrepresentation

- a. **Always Verify AI Output:** AI models can “hallucinate” or provide inaccurate information. You must thoroughly review and fact-check all AI-generated content before it is published. Remember, you are liable for any misrepresentations in any such content—not the AI.
- b. **Avoid Exaggeration:** The National Association of Realtors (NAR) Code of Ethics, Article 2, prohibits real estate agents from exaggerating or misrepresenting pertinent facts about a property (unless state law dictates otherwise or prohibits such disclosure). Do not use AI to create content that embellishes a property's features or conceals known defects.

2. Disclosure and Transparency

- a. **Disclose AI Alterations:** If an image has been digitally altered by AI (e.g., virtual staging, adding furniture, or enhancing landscaping), you must disclose it. This prevents misleading potential buyers about the property's actual condition. Unless the AI tool utilized requires something different (check their terms of service or similar), a simple, clear label like “virtually staged” or “AI-enhanced image” is recommended.
- b. **Provide Context:** For AI-generated content like market summaries or trend analyses, disclose that the information was created with the help of AI and always include the source of the underlying data. This will help build trust and inform consumers.

3. Fair Housing and Bias

- a. **Scrutinize for Bias:** AI models can inadvertently perpetuate biases present in their training data. You must meticulously review all AI-generated marketing materials to ensure they are free from discriminatory language or imagery that could violate the Fair Housing Act. This includes content that might target or exclude specific protected classes based on race, color, religion, sex, disability, familial status, or national origin.
 - b. **Maintain Neutral Language:** Use AI as a tool to draft neutral, objective descriptions of a property's features and location, rather than content that focuses on the characteristics of a potential buyer.
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4. Copyright and Licensing

- a. Human Authorship is Key:** Currently, U.S. copyright law requires “human authorship” for a work to be protected. This means you may not be able to stop others from using your AI-generated marketing content. You must add your own significant creative input to AI-generated drafts to be able to assert copyright.
- b. Know Your AI Tools’ Terms of Service:** Understand the terms and conditions of any AI tool you use. Some tools may not grant you commercial usage rights, and others may use your prompts and outputs to train their models, which could compromise client confidentiality.
- c. Avoid Infringement:** AI models are trained on vast datasets, some of which may contain copyrighted material. The output could potentially infringe on existing copyrights. Remember, you—not the AI—are liable for any infringing material the AI generates.

5. Data Privacy and Confidentiality

- a. Do Not Share Confidential Information:** Never input a client’s sensitive or confidential information, such as financial details, personal contact information, or other private data, into a public AI model. These models may store and use this data for training or other customers’ purposes, which can lead to a data breach.
- b. Anonymize Data:** If using AI for data analysis (e.g., to generate market reports), ensure all personally identifiable information is stripped from the data before it is input into the AI tool.

6. Documentation and Policy

- a. Market Center Policy:** Each market center should establish a clear policy on the acceptable uses of AI for marketing. The policy should include guidelines on which tools are approved, what level of human review is required, and the consequences for misuse. Check with your MCA to confirm whether such a policy exists, and if so, be sure to follow it.
- b. Document Human Involvement:** Keep records of how you, and anyone in your market center or on your team, provided human creative input and review for each piece of AI-generated content. This documentation can be crucial in the event of a legal dispute.

Remember, AI is a powerful tool that can help you streamline your work, create compelling marketing materials, and connect with clients in new and exciting ways. By keeping the above key legal, regulatory, and ethical considerations in mind—from ensuring accuracy to protecting data—you can more confidently embrace using AI technology when it comes to running your business. Remember, AI is a tool, not a replacement for your expertise. Your human judgment, expertise in the real estate industry, ethical standards, and dedication to your clients are what truly set you apart. By using AI responsibly and transparently, you can enhance your business, build trust with the public, and continue to thrive in the ever-evolving real estate landscape in a compliant and ethical way.