

Strengthening Value and Partnership Through a Robust, Fair Contract

A well-constructed contract is one of the most critical elements of any marketing services relationship. It not only formalises and governs the partnership but also protects both parties' rights and obligations, providing a clear framework for resolving unforeseen issues.

The Importance of Contractual Governance in Media and Advertising

Media and advertising contracts are inherently complex. They manage substantial financial commitments and deliverables that are measured through KPIs, research outcomes, and verified media performance. Despite this complexity, many marketing and agency professionals remain only partially engaged in contract negotiations or are unaware of key contractual provisions that directly affect their work.

Greater emphasis should be placed on developing, understanding, and maintaining these contracts. Contracts should be treated as living documents — regularly reviewed, updated, and aligned with evolving media and communications practices. This ensures that agreements remain relevant, transparent, and reflective of the current operating environment.

Collaboration Between Legal, Marketing, and Procurement

Updating contractual frameworks requires close cooperation between legal, marketing, and procurement functions.

- Marketing teams are often the first to identify innovations and changes in the media landscape.
- Procurement ensures commercial rigour and value-for-money principles.
- Legal codifies these developments into binding, compliant agreements.

This collaborative approach is essential; however, it can be limited by internal perspectives. Broader industry input can help ensure that contractual terms are both comprehensive and future-ready.

Leveraging Industry Standards

Industry associations such as ISBA, ANA, and WFA provide valuable contract templates and best-practice frameworks. Adopting or aligning with these standards offers three major advantages:

1. Comprehensive Coverage: These models reflect collective industry experience and address a wide range of potential risks and scenarios, making contracts more resilient and forward-looking.
2. Greater Acceptance: As these templates become industry norms, agency partners are more likely to accept and implement their clauses with minimal resistance.

3. Market specificity: Ensuring the use of the appropriate industry association contract within the relevant jurisdiction aligns the agreement with local market practices and regulatory nuances.

Key Contractual Focus Areas

To ensure contracts remain robust, transparent, and equitable, the following areas require particular attention:

1. Innovative Media Practices

Emerging practices — such as programmatic trading, Generative AI, inventory media, AI and other non-traditional buying models — demand enhanced oversight.

Contracts should:

- Define approval and governance processes
- Ensure end-to-end transparency of financial flows
- Clarify pricing structures and performance measures
- Specify data protection responsibilities and penalty provisions

These provisions help confirm that such practices deliver genuine value rather than opacity or unverified cost savings.

2. Third-Party Engagements

As agencies increasingly rely on specialist third parties, clients must retain approval, visibility, and audit rights over all outsourced functions. Oversight should extend to any subcontracted entity handling data, money, or media on the client's behalf.

3. Technical and Operational Costs

With more than half of all media investment now digital, contracts should clearly codify:

- Charges for ad-serving, tracking, and technology tools
- Performance KPIs (e.g., viewability, brand safety, blacklisting)
- These terms should align cost transparency with measurable accountability.

4. Data Ownership and Usage

Contracts must explicitly define:

- Ownership of data created or used during the engagement
- Conditions for combining or sharing data with third parties
- Usage rights both during and after the contract term

5. Transparency and Audit Rights

Full transparency and auditability — across both agency and third-party entities — are non-negotiable. Audit clauses should cover:

- Financial compliance and reconciliation
- Contractual performance verification
- Access to relevant documentation and systems

6. Continuous Improvement and Oversight

Contract management should not be a one-time exercise. Continuous refinement is necessary to ensure contracts remain aligned with market developments, emerging risks, and evolving technologies. Although the process can be complex and time-consuming, it is fundamental to establishing trust, safeguarding value, and ensuring a balanced client–agency partnership.

How 3A Compliance Delivers Value

Audit: Review contracts

Analysis: We provide expert commercial contract guidance across media, creative, and influencer disciplines

Assessment: Outcome that ensures that agreements are fair, precise, and aligned with the realities of the market, business models, and technical frameworks.

3A Compliance turns contract compliance into competitive advantage — delivering actionable audits, proven ROI, and clarity that strengthens agency partnerships and business performance

