

ARTICLE

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Can the use of AI corporate entities obligate those who use it in service provision?

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The pace at which commercial relationships evolve and the technological tools used to streamline these relationships remains rapid. All kinds of service providers are taking advantage of technology to optimize the services they offer, making them more agile, accelerated, and efficient.

For example, more and more companies are using chatbots to interact with customers, improving response times, reducing costs, and speeding up sales processes.

Let's not forget that the origin of the anglicism "chatbot" is simplified in the definition of conversing (chat) with a robot (bot), so unlike what happens in traditional communication, when we use a chatbot, one of the speakers is software.¹

But can these technological tools hold companies accountable corporately? How much responsibility do the creators of this type of technology have? Could it be said that artificial intelligence has its own personality, and therefore, be responsible for its actions?

The answer undoubtedly can lead to numerous opportunities. For now, a Canadian court has already set a precedent regarding how to address the issue of artificial intelligence in possible conflicts arising from its use. The case arises in Canada when an airline passenger purchased a plane ticket based on the information provided by a chatbot on the company's website, which offered him a price for the ticket sale, giving the passenger the option of a partial refund 90 days after purchase.

As a result, the passenger claimed the refund agreed upon with the virtual assistant, to which the company denied that option, arguing that the chatbot is "a separate legal entity that is responsible for its own actions".²

In the face of the airline's refusal, the passenger sued, obtaining a judgment in which the Court determined the airline's responsibility, establishing that "the applicable standard of care requires a company to exercise reasonable care to ensure that its representatives are not deceptive"³, adding "the chatbot remains part of Air Canada's website. It should be

¹ Guía Legal Chatbots: Aspectos jurídicos y de mercado. ECIJA. https://ecija.com/wp-content/uploads/2018/10/ECIJA_Chatbot-Chocolate_Paper_Aspectos-jur%C3%ADdicos-y-de-mercado_Chatbots-compressed.pdf

² <https://computerhoy.com/tecnologia/air-canada-indemnizara-cliente-inteligencia-artificial-invento-politica-devolucion-1365672>

³ <https://computerhoy.com/tecnologia/air-canada-indemnizara-cliente-inteligencia-artificial-invento-politica-devolucion-1365672>

obvious to Air Canada that it is responsible for all the information on its website,"⁴, disregarding the defense's arguments that even if the chatbot had made the offer to the passenger, the company's policies did not include money back for grief.

In this regard, we share the Court's criterion in holding the service provider responsible, since, in consumer protection, the information provided regarding the service provided - beyond the means or form in which it is carried out - must be true, clear, and free from inaccurate, erroneous, or misleading texts or dialogues.

We also agree that, at least for the time being and until the law recognizes it as a legal entity, the idea that the chatbot be considered as an autonomous and independent legal entity from the company that uses it as part of its customer service should be dismissed, because at the end of the day, chatbot technology is a commercial tool.

In that sense, the Court's ruling against the airline for the misleading information from its chatbot represents a significant moment in the ongoing debate about corporate responsibility and digital communication.

The fact is that due to the lack of knowledge about the scope and consequences that the use of AI and its interaction with third parties could imply, coupled with the lack of regulatory legislation in our country on this issue, we believe that the service provider who uses this type of technology as part of its internal processes or customer service must assume the inherent consequences of its use; and therefore, be responsible for the damages and/or losses that it may cause to third parties based on the legal regulations in force in our legal system.

⁴ <https://computerhoy.com/tecnologia/air-canada-indemnizara-cliente-inteligencia-artificial-invento-politica-devolucion-1365672>