

Public consultation on the Digital Fairness Act

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Public consultation for the Digital Fairness Act impact assessment

Introduction

As a result of the development of EU consumer law over the last 50 years, EU consumers are among the most protected in the world, online and offline. EU consumer law aims at ensuring a high level of protection for European consumers and at contributing to the better functioning of the EU single market and the competitiveness of businesses. It protects consumers against unfair commercial practices, giving them the right to withdraw from contracts and be properly informed before purchasing goods or services, while harmonising such rules and providing a level-playing field for traders operating cross-border in the EU. With the rise of e-commerce, the development of new technologies and increasing use of AI, it is important to ensure that EU consumer law continues to provide a high level of consumer protection in the current digital environment.

In recent years, the EU has significantly reinforced its digital rulebook, with the Digital Services Act ('DSA'), the Digital Markets Act ('DMA') and the Artificial Intelligence Act ('AIA'), in addition to the Data Act and the Audiovisual Media Services Directive ('AVMSD'), amongst others. These instruments complement EU consumer protection laws and reduce the risks and harms associated with specific problems online. In particular, the DSA introduced new restrictions to several unfair practices occurring on online platforms. The Commission has actively exercised its enforcement powers to ensure compliance and issued guidelines, such as on the protection of minors online[1]. All in all, however, the application of consumer protection rules in the digital area in conjunction with other digital legislation, which provided rules on certain types of traders (e.g. online platforms) or technologies (e.g. AI systems), is complex and specific gaps remain.

In this context, in October 2024, the Commission published a "Digital Fairness Fitness Check" which evaluated three EU consumer law Directives[2], analysing whether the existing EU consumer protection legislation is still relevant, effective, efficient, in the view of the new digital challenges. In particular, consumers are too often exposed to practices such as deceptive or manipulative interface design (dark patterns),

addictive features, unfair personalisation practices that exploit consumers' vulnerabilities, misleading marketing by online influencers, as well as difficulties in managing digital contracts. The Fitness Check concluded the estimated financial detriment suffered by consumers as a result of the identified problems is at least EUR 7.9 billion per year. The Fitness Check also underlined the current lack of clarity and legal certainty regarding unfair commercial practices, pointing at the lack of enforcement, the existing regulatory gaps and market fragmentation. These problems have a negative impact on the Single Market and the level playing field for EU businesses, who face unfair competition from non-compliant competitors. Moreover, the exponential growth of ecommerce, in particular with non-EU traders, has raised many pressing challenges across different policy areas, including product safety and unfair marketing practices.

The aim of this public consultation is to gather citizens' and stakeholders' views on potential improvements in EU consumer law to strengthen the protection of consumers in general – and of minors as consumers in particular – in the digital environment and ensure a level-playing field for traders.

This public consultation **will be open for 12 weeks**[3] and respondents can reply in any EU official language [4]. The results of all consultation activities, including this public consultation, will inform the preparation of a possible Digital Fairness Act.

It will take you approx. 20 minutes to fill in the questionnaire. We recommend that you **regularly save a draft of the questionnaire** as you fill it in and submit the questionnaire ("Submit" button at the very end) before the end of the consultation period. You can download the questionnaire in PDF format to help you prepare or discuss the reply within your organisation and can download an electronic copy of your reply.

For the multiple-choice questions below, some of the answers are not combinable. If you wish to change your answer, please unselect your first answer by clicking on it again, then click on the answer(s) that you wish to select.

[1] Commission, Guidelines on measures to ensure a high level of privacy, safety and security for minors online, pursuant to Article 28(4) of Regulation (EU) 2022/2065, C(2025) 4764 final.

[2] The Directives assessed under the Digital Fairness Fitness Check were: Directives 2005/29/EC, 93/13/EEC, and 2011/83/EU. To be noted that the Fitness Check was conducted prior to the entry into force of some acts, such as the DSA, DMA and AI Act and thus could not fully take into account their concrete application and enforcement.

[3] The 12-week period will begin once all the linguistic versions of the public consultation are available.

[4] The EU has 24 official languages: Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish.

About the respondent

*** 1 I'm replying as / on behalf of a:**

- ☐ consumer
- ☐ large company (above 250 employees)
- ☐ non-governmental organisation
- ☐ association representing minors or young persons
- ☐ small and medium-sized enterprise (SME)
- ☐ university
- ☐ association representing parents
- ☐ national business association
- ☐ research institute
- ☐ association representing teachers
- ☒ European-level business association
- ☐ other (please specify)
- ☐ national consumer association
- ☐ national consumer protection authority
- ☐ European-level consumer association
- ☐ another public body

*** 7 Organisation name:**

IAB Europe

*** 8 Please indicate your country of establishment:**

- ☐ AT - Austria
- ☐ FI - Finland
- ☐ LV - Latvia
- ☐ PL - Poland
- ☒ BE - Belgium
- ☐ FR - France
- ☐ LI - Liechtenstein
- ☐ PT - Portugal
- ☐ BG - Bulgaria
- ☐ DE - Germany
- ☐ LT - Lithuania
- ☐ RO - Romania
- ☐ HR - Croatia
- ☐ EL - Greece
- ☐ LU - Luxembourg
- ☐ SK - Slovak Republic
- ☐ CY - Cyprus
- ☐ HU - Hungary
- ☐ MT - Malta
- ☐ SI - Slovenia
- ☐ CZ - Czechia
- ☐ IS - Iceland
- ☐ NL - Netherlands
- ☐ ES - Spain
- ☐ DK - Denmark
- ☐ IE - Ireland
- ☐ NO - Norway
- ☐ SE - Sweden
- ☐ EE - Estonia
- ☐ IT - Italy
- ☐ other - other

11 Transparency register number, if applicable. Please check if your organisation is on the [transparency register](#), the voluntary database for organisations seeking to influence EU decision-making.

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*** 12 Please specify which sector you operate in:**

- | | | | |
|---|--|---|---|
| ☐ Agriculture | ☐ Public order and safety | ☐ Pharmaceutical | ☐ Research |
| ☐ Automobile | ☐ Commerce | ☐ Energy | ☐ R&D |
| ☐ Fishing | ☐ Construction | ☐ Mobility and transport | ☐ Media |
| ☐ Defence | ☐ Shipping | ☐ Tourism | ☐ Telecoms |
| ☐ Education and training | ☐ Aerospace | ☐ Manufacturing | ☐ IT |
| ☐ Environmental protection | ☐ Healthcare provision | ☐ Finance | ☒ Other: please specify |

13 Other sector:

Digital Advertising

* 14 **What is the core/main activity of your company / group of companies?** (multiple replies possible)

- ☐ Sale of goods
- ☒ Provision of services
- ☒ Provision of digital content
- ☒ Online platform
- ☐ Manufacturing
- ☐ Other (please specify)

* 16 **Publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you want your details to be made public or to remain anonymous.

☒ **Anonymous**

Your personal details entered in response to the following survey questions will not be published: name, organisation name and size, transparency register number. The rest of your replies (including type of respondent, country of residence) will be published.

☒ **Public**

Your replies will be published in full, including the personal details that you entered in response to survey questions about your name, organisation name and size, transparency register number.

* 17 I agree with the Commission [privacy statement](#). (If you do not agree, your reply to the survey will not be taken into account and will be deleted.)

☒ Yes

☐ No

Main Questionnaire

Section 1 - Dark patterns

Dark patterns are unfair commercial practices deployed through the design of digital interfaces that can influence consumers to take decisions they would not have taken otherwise. Examples of such practices may include but are not limited to: presenting choices in a leading manner (e.g. trader's preferred choice in colour, prominently displayed, other option(s) in black and white and difficult to find), using countdown timers to create urgency or asking misleading questions using double negatives.

* 1 **Concerning dark patterns, do you think any new EU actions should be taken to improve the protection of consumers and the functioning of the Single Market?** (Multiple answers possible.)

☐ No actions are needed

☒ Yes, non-regulatory measures are needed (e.g. guidance)

☐ Yes, more effective enforcement by public authorities of existing rules is needed

☐ Yes, new binding rules are needed

☐ No opinion / Don't know

2 **Please select from the list below the practices you consider to be a concern and require new EU action:**

☐ **Click fatigue** i.e. technique that forces consumers to click through too many steps in order to be able to make the desired choice

☐ Creating the **false impression** that the consumer does not have another option apart from the one (prominently featured) that's usually in favour of the trader

- ☐ **Nagging** i.e. repeatedly requesting or urging the consumer to make a particular choice
- ☐ **Pressuring** the consumer through urgency and scarcity claims (e.g. countdown timer) even when the respective offer or available stock is clearly limited in time
- ☐ **Confirm-shaming** i.e. pressuring the consumer towards a particular choice through emotive language or shaming
- ☐ **Sneaking into the online basket** i.e. adding new products or services to the shopping basket when the consumer is about to complete a purchase without them knowing or consenting
- ☐ Features leading to a **different result** than normally expected (e.g. button marked with “cancel the contract” would lead to a page showing the benefits of that contract)
- ☐ **Ambiguous language** in the presentation of choices to consumers e.g. using double negatives
- ☐ Presenting choices in a **leading manner**, for example, to prioritise an option for a given choice by using a brighter colour or larger font
- ☐ Other: please specify

4 ***Please describe the specific EU actions (non-regulatory measures) you support with respect to the above indicated dark patterns?***

Given the survey's impossibility for explaining why “no action is needed,” IAB Europe would support the EU action in enhancing the consistency and enforcement of existing rules on dark patterns, rather than introducing any new regulations. Robust rules already exist under the General Data Protection Regulation (GDPR), the Unfair Commercial Practices Directive (UCPD), and the forthcoming AI Act. These frameworks, particularly the GDPR's mandates on fairness and transparency (Art. 5(1)) and its detailed rules on consent and transparency (Art. 4, 7, 13, and 14), effectively prohibit dark patterns—a fact further confirmed by the EDPB Guidelines 03 /2022. Notably, National Data Protection Authorities (DPAs) have already taken action against these deceptive practices. The key supported non-regulatory actions are: 1. Ensuring Consistent and Effective Enforcement and DPA Coordination: The EU must facilitate greater coordination among National Data Protection Authorities (DPAs) when issuing guidance on dark patterns and cookie consent. This is the most pressing need to ensure that the robust rules already in place are implemented and enforced effectively and consistently across all Member States, thereby resolving the current contradictions and fragmentation in the Single Market. 2. Establishing a Common, Clear Definition: The EU should work to find a common, clear definition for dark patterns. This step is crucial for providing legal certainty and enabling innovative UX design by clearly differentiating manipulative practices (already covered by regulation) from legitimate digital design choices. 3. Preserving Direct Provider-Audience Interaction: The EU should reject proposals for centralised control mechanisms (such as browser-level settings) for consent. It is essential to preserve the ability of online providers (e.g., publishers) to interact directly with their audiences to explain the value exchange and obtain genuinely informed consent. By prioritizing greater coordination, consistent enforcement, and clarity in definition, the EU can effectively tackle dark patterns without risking conflict with or diluting its strong existing legal framework.

Section 2 - Addictive design

Addictive design features in digital products are those that make consumers spend more time and money online than intended, e.g. infinite scrolling (where a page loads content with no distinct end), content that disappears quickly (ephemeral stories), autoplay (that allows video or audio files to play without user's intervention), applying penalties for disengagement (such as breaking a streak) or recommender systems that are steered to increase the consumer's engagement.

*** 1 Concerning addictive design, do you think any new EU actions should be taken to improve the protection of consumers and the functioning of the Single Market? (Multiple answers possible.)**

- ☐ No actions are needed
- ☐ Yes, non-regulatory measures are needed (e.g. guidance)
- ☐ Yes, more effective enforcement by public authorities of existing rules is needed
- ☐ Yes, new binding rules are needed
- ☒ No opinion / Don't know

Section 3 – Specific features in digital products, such as in video games

Specific concerns have arisen with regard to certain features in digital products, for example in-app purchases that include uncertainty-based rewards, imitating gambling (e.g. loot boxes), pay-to-progress and pay-to-win mechanisms, and in-app purchases offered in exchange for virtual currencies that blur the real-world value of those transactions.

*** 1 Concerning specific features in digital products, such as video games, do you think that any new EU actions should be taken to improve the protection of consumers and the harmonisation in the Single Market?** (Multiple answers possible)

- ☐ No actions are needed
- ☐ Yes, non-regulatory measures are needed (e.g. guidance)
- ☐ Yes, more effective enforcement by public authorities of existing rules is needed
- ☐ Yes, new binding rules are needed
- ☒ No opinion / Don't know

Section 4 – Unfair personalisation practices

Consumers often find personalised offers and content useful (e.g. personalised advertising). At the same time, many consumers are concerned about how their personal data are used to personalise commercial offers, and many have the impression that information about their vulnerabilities (e.g. personal problems, financial challenges, or negative mental states) is used unfairly for commercial purposes.

*** 1 Concerning unfair personalisation practices, do you think that any new EU actions should be taken to improve the protection and the functioning of the Single Market?** (Multiple answers possible)

- ☐ No actions are needed
- ☐ Yes, non-regulatory measures are needed (e.g. guidance)
- ☒ Yes, more effective enforcement by public authorities of existing rules is needed
- ☐ Yes, new binding rules are needed
- ☐ No opinion / Don't know

2 Please select the actions you support: (Multiple answers possible)

- ☐ Consumers should have more control over personalised advertising, e.g. to have a simple and effective way to refuse personalised advertising (opt out) or to have explicitly to agree to it (opt in)
- ☐

Consumers should have more control over personalised pricing, e.g. to have a simple and effective way to refuse personalised pricing (opt out) or to have explicitly to agree to it (opt in)

- ☐ Personalised advertising using information about vulnerabilities should be restricted, e.g. personalised advertising that uses special categories of personal data (i.e. sensitive data, such as racial or ethnic origin, political opinions, religious or philosophical beliefs, or health data) or that uses information on consumers' individual vulnerability (e.g. age, emotional or financial distress)
- ☐ Personalised advertising that targets minors should be prohibited
- ☐ Personalised pricing based on personal data/profiling should be restricted when targeting vulnerable consumers, including minors
- ☐ Personalised pricing based on the personal data/profiling of particular consumers should be restricted in general
- ☒ Other: please specify any additional or more specific actions you support

3 Additional or more specific actions you support:

Given the survey's limited capacity for detailed explanations for "no actions needed" responses, IAB Europe's position would be then to prioritize the effective and consistent enforcement and clarification of the extensive existing EU framework—including the GDPR, ePrivacy Directive, DSA, DMA, UCPD, and AI Act—over the introduction of new, overlapping regulations. Specifically, we support the following actions: 1. Prioritise enforcement and assessment of existing law: The core action is to ensure the consistent and effective enforcement of the comprehensive safeguards already embedded in EU law, particularly the GDPR and DSA. This includes giving online service providers time to fully implement the recently published DSA Article 28 guidelines concerning children's protection, followed by a thorough assessment of the guidance's effectiveness. Fraud and other malicious actions are already breaches under existing EU instruments and must be addressed via robust enforcement against the primary offenders. 2. Improve data protection coordination and clarity: The solution to the fragmented implementation caused by varying DPA guidance on cookie consent and dark patterns lies in achieving greater coordination and clarity within the data protection regime. 3. Simplify and modernise the ePrivacy Directive: To reduce consent fatigue and improve the consumer experience, a streamlined approach is necessary. The most effective simplification would be integrating the ePrivacy Directive 'cookies' rules directly into the GDPR and modernising them, ensuring that consent requirements are applied where users truly expect and need to exercise control, making their choices regarding personalisation more meaningful. 4. Conduct comprehensive impact assessments before legislation: Before developing any new legislation, the EU must conduct comprehensive impact assessments that fully account for all intertwining existing legislation (e.g., GDPR, DSA, DMA, ePrivacy, UCPD), such as the EDPB consultation on their draft guidelines on the interplay between DSA and GDPR, and existing industry standards. This holistic approach will prevent regulatory overlaps. Specifically, the impact of the DSA rules must be evaluated, and a genuine audit of all applicable laws must be performed to assess whether any regulatory gaps truly exist. It is vital to avoid regulating areas where robust sector-specific rules already exist and are effectively enforced. 5. Foster a supportive business environment and recognise self-regulation: The EU should not introduce rules that could unfairly shift liability away from primary actors in complex supply chains (e.g., from advertisers to publishers or intermediaries) when the original source of potential harm is elsewhere. Furthermore, industry-led initiatives—

such as the ICC Code and EASA Best Practice Model—must be recognised by the Commission as they play an important role. 6. Avoid prohibitions based on subjective criteria and promote digital literacy: Proposals to regulate advertising based on subjective criteria like consumer “vulnerability” or “negative mental states” have significant technical and legal challenges related to processing sensitive data, which could easily fall under the definition of sensitive data under GDPR and conflicting with the GDPR principle of data minimisation (as identifying such states would require collecting more personal data). Finally, instead of blanket bans for minors, a risk-based service-level approach that aligns with frameworks like the DSA Article 28 guidelines should be considered, as mandatory age verification for a much wider range of traders would be disproportionate and would over-regulate services that do not pose risks to children.

Section 5 – Harmful practices by social media influencers

With the increasing importance of social media for consumer transactions, reports of problematic commercial practices have become more prominent. Concerns arise with regard to social media influencers, for example as regards hidden marketing and the promotion and sale of potentially harmful products.

*** 1 Concerning unfair influencer marketing, do you think that any new EU actions should be taken to improve the protection of consumers and the functioning of the Single Market? (Multiple answers possible)**

- ☐ No actions are needed
- ☐ Yes, non-regulatory measures are needed (e.g. guidance)
- ☒ Yes, more effective enforcement by public authorities of existing rules is needed
- ☐ Yes, new binding rules are needed
- ☐ No opinion / Don't know

2 Please select the actions you support: (Multiple answers possible)

- ☐ Influencers should disclose advertising clearly and prominently
- ☐ Brands and agencies should take measures to ensure that influencers comply with legal obligations
- ☐ Specific types of claims by influencers should be restricted to protect minors, e.g. claims about unhealthy foods, dietary supplements, plastic surgery, cosmetic procedures, tobacco/vaping, or promotion of unrealistic beauty standards (e.g. by means of retouched or AI generated images used in advertising where the body's shape, size or skin appearance has been changed)
- ☒ Other: please specify any additional or more specific actions you support

3 Additional or more specific actions you support:

The creator economy brings considerable value to the EU economy and is a rapidly growing sector. It does not operate in a legal vacuum. The existing EU legal framework already provides clear safeguards: the UCPD, AVMSD, and DSA all prohibit hidden advertising. The European Parliament's study of 2022 on influencer marketing reinforces this approach, concluding that the focus should be relying on the existing consumer protection legislation. Moreover, most European countries have adopted strategies in this area (both self-regulatory and regulatory) that also take into account the specific restrictions that may apply in the respective legal frameworks. IAB Europe would normally have chosen "no actions need it" for this subject but given the format of the survey, we believe that the priority should therefore be on effective awareness raising about the rules as well as harmonised enforcement thereof, as the main challenge here is not a lack of rules, but rather inconsistent enforcement. New rules may also lag behind the fast-paced nature of technological and market developments. Specifically, we support the following actions: 1. Strengthen Enforcement, Coordination, and Capacity Building: Focus on targeted enforcement against inadequate disclosure of commercial relationships. The Commission should focus on facilitating national authorities, their national level enforcement, and supporting their capacity building to ensure consistency across Member States. 2. Promote awareness and education: Issues such as inadequate disclosure are best addressed through targeted enforcement and awareness campaigns to enhance compliance. Expand EU and national-level awareness campaigns for influencers, advertisers, and consumers to raise understanding of disclosure obligations. 3. Recognise and leverage industry initiatives: The Commission should explicitly recognise and encourage effective self-regulatory tools, such as the AdEthics programme and the ICC Advertising and Marketing Communications Code, both of which explicitly prohibit hidden advertising and complement the existing regulatory framework.

Section 6 - Unfair marketing related to pricing

Consumers may face unfair practices related to the marketing of the price, such as drip pricing (failing to disclose upfront mandatory and unavoidable costs and fees and adding them later in the course of the booking), advertising attractive "starting" prices whilst automatically applying dynamic price increases (rendering such starting prices unrealistic for a majority of buyers) and misleading practices regarding price comparisons based on vague reference prices that give a false impression of reduction of the selling price.

*** 1 Concerning unfair marketing related to pricing, do you think that any new EU actions should be taken to improve the protection of consumers and the functioning of the Single Market? (Multiple answers possible)**

- ☐ No actions are needed
- ☐ Yes, non-regulatory measures are needed (e.g. guidance)
- ☐ Yes, more effective enforcement by public authorities of existing rules is needed
- ☐ Yes, new binding rules are needed
- ☒ No opinion / Don't know

Section 7 – Issues with digital contracts

Consumers may face issues with digital contracts, notably regarding the cancellation or renewal of subscriptions, or the conversion of free trials into paid subscriptions, and with automated contracts. In addition, consumers may not have the possibility to contact a person when trying to reach the customer service about their contract.

*** 1 Considering issues with digital contracts, do you think that any new EU actions should be taken to improve the protection of consumers and the functioning of the Single Market?** (Multiple answers possible)

- ☐ No actions are needed
- ☐ Yes, non-regulatory measures are needed (e.g. guidance)
- ☐ Yes, more effective enforcement by public authorities of existing rules is needed
- ☐ Yes, new binding rules are needed
- ☒ No opinion / Don't know

Section 8: Simplification measures

Any possible legislative change proposed in any of the areas above should contribute to enhanced consumer protection and simplification of the regulatory environment. In addition, the Digital Fairness Act could also address other issues with a view to further reducing compliance costs while improving effective consumer protection. The Digital Fairness Fitness Check has identified potential for targeted simplification and burden reduction for traders, specifically in the area of information requirements and the right of withdrawal.

*** 1 In your view, are there any concrete measures to simplify consumer laws that could reduce the burden for businesses while maintaining the same level of consumer protection?**

- ☒ Yes
- ☐ No
- ☐ No opinion / Don't know

2 Please select the simplification measures you deem appropriate: (Multiple answers possible)

- ☐ Re-balancing the right of withdrawal from digital media subscription services (such as audio and video streaming) to make it more sustainable for the suppliers, whilst upholding the consumers' right to change their mind
- ☐ Reducing the consumer information requirements under the Consumer Rights Directive (CRD) in respect of repetitive transactions with the same supplier (such

as in-app purchases) and in automated contracts concluded by consumers using a digital (AI) assistant

- ☐ Ending the current fragmentation of national rules on price reductions for perishable goods under the Price Indication Directive by fully exempting all food products regardless of their characteristics
- ☒ Other: please specify any additional or more specific actions you support

3 Additional or more specific actions you support:

The most effective simplification measures should focus on enhancing the coherence and workability of the existing EU consumer acquis, rather than introducing new, potentially duplicative legislation. 1. Prioritise Implementation and Avoid Unnecessary Legislative Intervention: We urge the European Commission to forbear from using simplification to justify unnecessary legislative interventions in the proposed Digital Fairness Act (DFA). The EU already possesses a comprehensive, world-leading framework for consumer protection and data protection. New rules should be considered only where genuine, evidence-based gaps in consumer protection law exist. The primary challenge lies in consistent implementation and oversight of existing rules, not a lack of regulation. Introducing more rules without addressing the implementation challenge would significantly increase regulatory uncertainty for traders, particularly SMEs, and require substantial resource investments in compliance, ultimately offering negligible benefits for consumers. Introducing additional advertising-specific rules, in particular, would add unnecessary complexity to an already comprehensive framework that already covers dark patterns, unfair personalisation, and targeting of minors. 2. Leverage Existing Simplification Workstreams. The Commission should focus its simplification efforts on ensuring coherent application of existing legislation and addressing duplication via the EU's established simplification programmes. Opportunities for simplification of the digital acquis should be addressed in ongoing processes—specifically, upcoming omnibus proposals and fitness checks—which are the appropriate vehicles for this purpose, rather than being used as a basis for new legislative proposals like the DFA. The Commission is encouraged to use its ongoing simplification workstreams to better advance consumer protection goals while fostering a competitive and innovative digital economy.

4 Do you think certain types of information should be provided to consumers solely in digital form?

- ☐ Yes. Please describe concretely which information
- ☐ No. Please explain
- ☒ No opinion / Don't know

7 In your view, in which of the following areas would EU actions reduce single market fragmentation that may currently exist due to diverging national laws or interpretations by national courts or authorities? (Multiple answers possible)

- ☐ Online interface design (dark patterns, such as presenting choices in a leading manner)

- ❑ Addictive design (features that make consumers spend more time and money online than intended, e.g. infinite scrolling)
- ❑ Features in certain digital products, such as video games (e.g. loot boxes or pay-to-progress or pay-to-win mechanisms)
- ❑ Personalised commercial practices (such as advertising and pricing based on personal data/profiling)
- ❑ Commercial practices by social media influencers (e.g. lack of disclosure of the commercial intent, harmful claims about certain products or services)
- ❑ Pricing practices (e.g. adding unavoidable fees during the ordering process which makes the final price differ from the headline price initially advertised)
- ❑ Digital contracts (e.g. difficult exercise of the right to cancel subscriptions)

8 Do you have specific suggestions, requests for clarification or concerns with regard to the interaction of cross-cutting EU consumer protection legislation with other existing EU legislation, including the Audiovisual Media Services Directive, the Digital Services Act, the Digital Markets Act, the Artificial Intelligence Act, or the EU Digital Identity Framework? Please be specific and provide evidence to support your views.

The interaction between the cross-cutting EU consumer protection legislation and newer digital regulations presents several challenges, primarily stemming from overlapping mandates, the risk of duplicative obligations, and a lack of clarity in the hierarchy of rules. We request that the Commission prioritize the clarification and streamlining of these frameworks to ensure consistency, reduce unnecessary complexity for businesses making substantial compliance investments with negligible consumer benefits, and maintain a high level of consumer protection. The coexistence of horizontal legislation, such as the Digital Services Act (DSA), and sector-specific legislation, such as the Audiovisual Media Services Directive (AVMSD), risks resulting in overlapping mandates and duplicative obligations, especially for video-sharing platforms (VSPs). We urge the Commission to clarify the precise relationship between these horizontal and sectoral rules, ensuring that obligations are complementary and do not simply duplicate requirements. This clarification is particularly critical concerning the protection of minors, as both the DSA and the AVMSD cover this area. With the AVMSD soon to be revised, as mentioned in the 2026 European Commission Work programme, any potential stronger obligations for VSPs must be carefully coordinated with the DSA and other horizontal frameworks to avoid conflicting requirements and maintain a coherent legal landscape. Personalised advertising is already governed by a highly complex set of rules, including the General Data Protection Regulation (GDPR), the ePrivacy Directive and the DSA. Any proposed interventions must be thoroughly assessed for their impact and consistency with this existing framework. Provisions against manipulative design practices, or "dark patterns," exist across the Unfair Commercial Practices Directive (UCPD), the DSA, the GDPR, and the AI Act. This legislative redundancy creates uncertainty regarding the applicable rules and the mandate of enforcement authorities. Regarding influencer marketing and hidden advertising, the existing legal framework is robust. The UCPD, the AVMSD, and the DSA already ban all forms of hidden advertising. We contend that the primary challenge here lies in enforcement gaps, not legislative gaps. We therefore request that efforts be concentrated on strengthening enforcement of existing rules. Furthermore, by officially recognizing the AdEthics programme, Commissioner

McGrath's endorsement lends weight to this important industry initiative, thereby contributing to better compliance. In conclusion, we request that the Commission focus on clarification and enforcement coherence across the existing EU digital rulebook, particularly where cross-cutting legislation interacts with newer digital acts.

Section 9: Horizontal issues

*** 1 In addition to the above, do you think that any further EU actions should be taken to improve the protection of consumers and the functioning of the Single Market in the digital environment in a more general way? (Multiple answers possible.)**

- ☐ No actions are needed
- ☐ Yes, non-regulatory measures are needed (e.g. guidance)
- ☒ Yes, more effective enforcement by public authorities of existing rules is needed
- ☐ Yes, new binding rules are needed
- ☐ No opinion / Don't know

2 Please select the actions you support: (Multiple answers possible)

- ☐ Digital products accessible to minors that contain certain commercial practices should be subject to the mandatory use of age verification/age estimation tools
- ☐ Traders should ensure 'fairness by design' (i.e. take technical and organisational measures to incorporate consumer protection considerations at all stages of the product or service development)
- ☐ With a view to strengthening the enforcement of consumer protection law, the burden of proof should be reversed in cases where consumers/interested parties or authorities have disproportionate difficulty in obtaining information to prove a trader's wrongdoing
- ☐ The current definition of a consumer as someone who is reasonably well-informed, observant and circumspect should be amended to better reflect the reality of consumer behaviour in the digital environment (e.g. most people not reading Terms & Conditions or understanding how their personal data is used)
- ☐ Legislation should prevent commercial practices from targeting consumers' possible vulnerabilities of a temporary or permanent nature (e.g. socio-demographic, behavioural, financial or personal characteristics)
- ☐

Other: please specify any additional or more specific actions you support

4 Do you have further suggestions for improving consumer protection and enforcement in the digital sphere and contributing to a level playing field for traders in the EU?

Do you have specific suggestions concerning the protection of minors?

To avoid duplication and legal friction, any new obligations must be carefully aligned with the established framework of the General Data Protection Regulation (GDPR) and the ePrivacy Directive. Regarding targeting minors and sensitive data, profiling-based advertising to minors is already prohibited for online platforms under the Digital Services Act (DSA) and severely restricted under the GDPR. Similarly, the targeting of ads using sensitive data for online platforms is restricted under the DSA, and the GDPR strictly regulates the processing of special categories of data. We note that industry standards, such as the Transparency and Consent Framework (TCF) v.2.2., already do not support the processing of sensitive data for personalised advertising. Concerning Consent Requirements, the definition of "meaningful consent" and other consent requirements are comprehensively covered by the GDPR, the ePrivacy Directive, and Data Protection Authorities' guidance. New legislation should rely on and align with this existing framework. Age assurance is a critical component of a comprehensive online safety strategy. Providing age-appropriate experiences is contingent on being able to reliably determine age, as providers of online services and products need this information to offer safe, age-appropriate, and empowering services, products, and content. In terms of best practices, new legislation should recognise and promote industry-led models for the protection of minors, including the ICC Code, the EASA Best Practice Model, Self-Regulatory Organizations (SROs), and IAB Poland's code on children's protection. Finally, we emphasize the need to allow sufficient time for the implementation of recently introduced regulations. The European Commission recently published guidelines for Article 28 of the DSA, specifically concerning children's protection, and time should be given to fully implement these rules before considering new obligations.

5 Would you like to submit documents? Please upload your file(s) here.

a861e851-7bf9-489c-bd51-cb3906a38ed6/IAB_Europe_supporting_document_for_DFA_consultation.pdf

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