



Joint industry statement on the Digital Fairness Act

A call for competitiveness-driven policy

The undersigned associations representing companies of all sizes across business sectors urge the European Commission to maintain a targeted, evidence-based approach when considering further regulatory interventions; to undergo a thorough assessment of the potential impact on the economy and businesses before introducing further regulatory measures; and to explore alternative avenues, such as improving enforcement of European consumer protection rules. We invite the co-legislators to be guided by the same principles when examining any measures put forward by the EC.

European consumers already enjoy the highest level of protection in the world. The shortcomings identified in the [fitness check](#) of EU consumer law are not evidence of a lack of rules but point to ineffective enforcement¹ and the need for workable and actionable guidance. Any further overlapping rules are likely to increase confusion for market participants and authorities alike, reducing the efficiency of enforcement.

After a period of very intense regulatory activity and in line with the current mandate's focus on competitiveness and simplification, the threshold for any additional rules has to be higher. Any regulatory interventions should address specific, clearly identified gaps and market failure. We should avoid regulating the same practices across multiple legal instruments and we should weigh the downsides of increased regulatory complexity introduced by new rules.

¹ [Fitness Check of EU consumer law on digital fairness](#), section 4.1.1.1, p. 36, and 4.1.1.4, p. 48-51.

We would like to take this opportunity to provide a snapshot of the already dense regulatory regime governing a number of issues that are currently at the centre of the debate on the Digital Fairness Act:

- **Dark patterns:** Relevant provisions already exist in the Unfair Commercial Practices Directive (UCPD, including the Annex covering banned practices), the Digital Services Act (DSA, with a specific focus on online platforms), General Data Protection Regulation (GDPR, covering giving and withdrawing consent) and AI Act (subliminal techniques).
- **Personalisation:** Recommender systems and personalised ads are governed by the GDPR, ePrivacy Directive, and the DSA. Provisions include bans on targeted ads for children and use of sensitive data and the right to experience non-profile-based recommender systems. Legal texts touching on aspects of advertising also exist in the UCPD, CRD, Regulation on transparency and targeting of political advertising, and Platform to Business Regulation.
- **Addictive design:** This is predominantly covered by the DSA as part of systemic risk assessments and also via provisions on profile-based recommender systems.
- **Subscriptions:** Provisions currently exist in the Consumer Rights Directive (CRD), the UCPD and the DSA, with the focus on easy withdrawals and not making unsubscribing unnecessarily difficult.
- **Influencer marketing:** The UCPD, Audiovisual Media Services Directive (AVMSD) and DSA include provisions covering the disclosure of commercial communications, bans on hidden advertising and transparency requirements, including on the labelling of ads and endorsements. The European Commission's [Influencer Legal Hub](#) is a great resource providing clarity on applicable rules.

It is evident that a large number of priority areas for policy makers are already governed by a complex, interlocking regulatory framework that could benefit from clarification and simplification.

As highlighted in President von der Leyen's [statement](#) at the European Parliament plenary in July 2024, "Our first priority will be prosperity and competitiveness". The undersigned organisations support this impetus and underline that it should guide all policy making in this mandate.

Signatories:

- Allied for Startups – 634665118544-37;
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- European Internet Services Providers Association – 54437813115-56;
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- EU Travel Tech – 70614728635-77;
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- IAB Europe – 43167137250-27;
- ITI – The Information Technology Industry Council – 061601915428-87