

Ms. Henna Virkkunen
Executive Vice-President for Tech Sovereignty, Security and Democracy

Mr. Michael McGrath
Commissioner for Democracy, Justice, the Rule of Law and Consumer Protection

Brussels, 14th July 2025

Dear Executive Vice-President Virkkunen,

Dear Commissioner McGrath,

We are writing regarding the upcoming Digital Fairness Act (DFA) consultation and the European Commission's tender for a study on its policy options, as reported in the media.

IAB Europe and co-signing organisations, a group representing all facets of the digital advertising ecosystem—including advertisers, advertising agencies, publishers, and ad tech intermediaries—welcome the Commission's efforts aimed at enhancing the protection of European consumers. However, we are concerned that the DFA process appears to be extending into areas already governed by existing advertising regulations.

We therefore urge the European Commission to prioritize the effective application of existing EU consumer and digital laws. Specifically, the Unfair Commercial Practices Directive (UCPD), the Digital Services Act (DSA), and the General Data Protection Regulation (GDPR). The development of DFA proposals should be a last resort and target specific, proven and clearly identified problematic unfair commercial practices as well as strictly upholds the principled approach enshrined in the UCPD.

Overlapping rules would inevitably confuse organisations, regulatory authorities and users, undermining regulatory efficiency and contradicting the Commission's goal of simplification. A complex patchwork of rules is unlikely to meet the EU's commitment to minimising regulatory burdens and creating an environment which supports competitiveness. Mario Draghi's excellent report on competitiveness warned of exactly this kind of over-regulation and its harm to Europe's economies. This is not a path towards a Digital Single Market, but two steps backwards.

This issue is particularly pressing for the digital advertising sector, which is already extensively regulated to address the consumer protection concerns raised in the DFA consultation process. For example:

- Personalised ads are governed by the GDPR, the ePrivacy Directive, the DSA, and the Digital Markets Act (DMA).
- Profiling-based advertising to minors is already prohibited under the DSA for online platforms and severely restricted under the GDPR as per data protection authorities' interpretation¹.
- Targeting ads using sensitive data is prohibited for online platforms under the DSA. The GDPR strictly regulates the processing of special categories of data allowing for very specific and narrow use cases, subject to stringent DPA regulatory oversight. On top of this, the Transparency and Consent Framework² ([TCF v.2.2](#)), does not support the processing of such data including for personalised advertising.
- Consent requirements - including the definition of meaningful consent - are covered by the GDPR, ePrivacy Directive, and Data Protection Authorities' guidance. Any new obligations should be carefully aligned with this framework to avoid duplication.
- Provisions against dark patterns exist in the UCPD, the DSA, the GDPR, and the AI Act.
- As regards influencer marketing, the UCPD, the AVMSD, and the DSA already ban all forms of hidden advertising. Issues related to ad disclosure reflect enforcement gaps, not legislative ones. Important industry initiatives, such as the [AdEthics](#) programme, also need support and recognition.

¹ On top of the GDPR restrictions, the Guidelines on Automated individual decision-making and Profiling for the purposes of Regulation 2016/679, state organisations should refrain from profiling children for marketing purposes.

² The Transparency & Consent Framework (TCF) ensures that participating organisations from the digital advertising ecosystem implement privacy practices aligned with the EU data protection framework.

All of this comes on top of several advertising verticals being already heavily prohibited or regulated at European level, such as tobacco and credit products³, and at national level, such as alcohol and gambling⁴.

Given the period of intense legislative activity that introduced the EU's Digital Rulebook, the threshold for introducing new rules must be set high. The Digital Fitness Check of EU consumer law showed there was no lack of rules, rather a need for more effective enforcement, along with workable guidance.

Before considering new measures, we therefore call on the European Commission to:

- Target enforcement efforts where egregious breaches remain.
- Prioritise aiding company compliance with existing rules, especially European consumer protection laws.
- Evaluate the impact of the DSA rules, which only entered into force after the Fitness Check was completed, and thoroughly assess whether regulatory gaps exist (auditing all applicable laws and regulation).
- Limit any consultation or impact assessments to genuinely unregulated policy areas not already covered by other laws.

We invite the European Commission to acknowledge that while we are open to addressing genuine regulatory gaps, it is crucial to demonstrate that the consumer protection concerns underpinning the DFA are not already adequately covered by existing legislation, particularly in relation to the digital advertising industry. Any proposed interventions should be thoroughly assessed for their impact and consistency with the spirit of the simplification agenda.

Finally, digital services thrive on trust; without it, we all do not have a business model. We are aware that trust is hard-gained and easily lost, and we are therefore committed to engaging with the Commission to ensure that the enforcement of existing rules creates an equal-playing field for businesses and consumers. No additional rules can replace a lack of effective enforcement.

³ Examples of sectorial regulation on advertising includes the European Tobacco Products Directive (2014/40/EU) & the Directive on credit agreements for consumers (2023/2225/EU).

⁴ France, Lithuania, and Ireland, on top of other countries, have introduced regulations restricting alcohol advertising. Regarding advertising of gambling, Italy, Spain, and the Netherlands are examples of EU Member States introducing rules and restrictions on these.

Signatories



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Europe (IAB Europe)



Alliance Digitale



The Portuguese Association of
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The German Association for the
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