European Tech Alliance

DIGITAL FAIRNESS

Enforce, Clarify, Simplify - Executive Summary

MAY 2026

European consumers and businesses deserve a protection framework that works, where rights and obligations are clear, enforcement is reliable, and trust the guiding principle.

As the Commission plans to publish its Digital Fairness Act (DFA) at the end of 2026, the priority should not be adding new layers of regulation, but making the existing framework delivers better. We share Commissioner McGrath's ambition to make the DFA "both a pro-consumer and pro-business initiative" that must "not duplicate or fragment the existing rulebook".

In its new discussion paper, the European Tech Alliance, representing 39 tech companies founded and headquartered in Europe, presents its vision for the future of consumer protection in Europe, centered around three key pillars: Enforce, Clarify, Simplify.

Enforce: Uneven application across the Single Market defines the reality on the ground, rather than a lack of rules. Identical practices can trigger enforcement action in one country and none in another, leaving consumers with inconsistent protection and businesses with legal uncertainty. EUTA strongly supports improvements to enforcement mechanisms through a revised Consumer Protection Cooperation (CPC) Regulation, and reinforced cooperation between enforcing authorities, making sure that consumer rights mean the same thing in every Member State.

Clarify: European tech companies currently face overlapping obligations stemming from siloed approaches to consumer protection, data protection, platform regulation and AI rules. Concretely, a single interface change can trigger parallel assessments under the Unfair Commercial Practices Directive, General Data Protection Regulation, Digital Services Act and AI Act, each with its own definitions, authorities and remedies. The Commission should clarify how existing rules interact (e.g. via guidelines), and make sure to complete the Digital Fitness Check - aimed at evaluating these overlaps - before introducing new rules in the Digital Fairness Act.

Simplify: We must focus on erasing redundant obligations and ensuring clearer rules for businesses and consumers alike. It should not mean banning legitimate, consumer-valued practices or imposing rigid design templates that freeze innovation. The right standard is a principle-based one, anchored in demonstrable consumer harm rather than presumed risk - the approach that has underpinned EU consumer law for decades and that remains the most reliable guide for proportionate intervention.

The Digital Fairness Act can be the moment Europe moves from accumulating overlapping rules to making them work together. We stand ready to work constructively to ensure the DFA delivers real, measurable benefits for European consumers and a well-functioning Single Market.

European Tech Alliance

DIGITAL FAIRNESS

Consumer protection that works: enforce, clarify, simplify

MAY 2026

Consumer protection is a daily responsibility for European tech companies.

EUTA members serve more than a billion users worldwide and have built their success on offering trusted and useful services to consumers. Upholding a high standard of consumer protection is core to EUTA members that invest significantly in compliance with EU and national rules, often going beyond what the law requires.

We therefore share the statements by Commissioner McGrath that the Digital Fairness Act should be "both a pro-consumer and pro-business initiative"[1] and must not duplicate or fragment the existing rulebook[2].

As the Commission prepares its proposal for end 2026, the path that will deliver the most for consumers is consistent enforcement and greater legal certainty, not adding a new layers to an already comprehensive framework[3].

Dark patterns, addictive design, pricing and subscriptions are already regulated in EU law; effective implementation and targeted clarification of these existing rules should be at the core of any reflection on the European rulebook.

[1] Commissioner Michael McGrath, European Retail Innovation Summit, Brussels, 9 April 2025, as reported by Euronews, "EU Digital Fairness Act is for business as much as consumers, says justice commissioner", 11 April 2025, available at: https://www.euronews.com/next/2025/04/11/eu-digital-fairness-act-is-for-business-as-much-as-consumers-says-justice-commissioner

[2] Commissioner-designate Michael McGrath, Confirmation Hearing before the European Parliament Committee on Legal Affairs (JURI), November 2024. Transcript available via the European Parliament at: https://www.europarl.europa.eu/committees/en/juri/home

[3] European Tech Alliance (EUTA), *European tech companies face an overwhelming amount of rules harming their ability to grow and compete*, November 2023

The EU rulebook is comprehensive. The priority is making it work

The European Commission's 2024 Digital Fairness Fitness Check acknowledges that European consumers are among the most protected in the world[4], online and offline, but that some challenges remain in certain identified areas. The Fitness Check itself reaches this conclusion: the priorities are more effective enforcement and clarification of existing rules, not new obligations layered on top of an already comprehensive legislative foundation.

To deliver fairness across the Single Market, consumer protection rules must be applied consistently, effectively, and across borders by all companies operating in Europe, regardless of origin or business model. The Fitness Check specifically calls for "facilitating more effective enforcement and compliance with EU consumer law, in particular in technologically complex cases"[5]. A revision and strengthening of the Consumer Protection Cooperation (CPC) Regulation is an essential first step, equipping enforcement authorities with stronger tools and better coordination mechanisms across Member States[6].

The patchwork of consumer protection rules, at times overlapping with one another, should be carefully assessed. The Fitness Check equally points to the need for "simplifying the existing rules in the areas identified, without compromising the objective of a high level of consumer protection"[7]. Clarifying how these regimes fit together, ensuring consistency and avoiding duplication would reduce compliance costs and ultimately increase consumer trust. In that regard, we warmly welcome the ongoing Digital Fitness Check, tasked with identifying legislative overlaps and areas of clarification, which should be completed prior to any updates to EU consumer protection rules[8].

Dark patterns are heavily regulated: inconsistent enforcement is the real challenge

Dark patterns can affect consumer decision-making and trust. We share the Commission's concerns that there might still be certain manipulative practices in online interfaces accessed by European consumers[9].

Dark patterns are not, however, an unregulated phenomenon. The EU has already developed strong and comprehensive frameworks addressing manipulative and misleading practices, across multiple pieces of legislation (see Annex I).

Crucially, the Fitness Check covers the period 2017–2023 and acknowledges that it has not been able to assess the full impact of the most recent measures, noting that "several of these laws

[4] Consumer protection is present in legislations including the General Data Protection Regulation (GDPR), e-Privacy Directive and the Digital Services Act (DSA), Digital Market Act (DMA), Platform to Business Regulation (P2B) to the Unfair Commercial Practices Directive (UCPD), the Unfair Terms in Consumer Contracts Directive (UTCCD), the Consumer Rights Directive (CRD), Accessibility Act, Audiovisual Media Services Directive (AVMSD) and recent updates through the Enforcement and Modernisation Directive

[5] European Commission, Commission Staff Working Document – Fitness Check of EU consumer law on digital fairness, SWD(2024), page 89, 2024

[6] European Tech Alliance (EUTA), Digital Fairness Starts with Smarter Enforcement

[7] European Commission, Commission Staff Working Document – Fitness Check of EU consumer law on digital fairness, SWD(2024), page 89, 2024

[8] European Tech Alliance, Digital Fairness Consultation Position Paper, October 2025

[9] For more, see our EUTA's infographic "Protect consumers: Enforce EU standards and rules on all actors, including those of Asian origin"

have only just entered into force, as a result of which their likely impact cannot be fully reflected yet"[10] .

What is needed now is clarity on how these rules interact and how they are enforced consistently across the EU. We are concerned that the DFA would consider "dark patterns" certain legitimate marketing and design choices, such as highlighting benefits, signalling scarcity, or optimising the number of clicks. Such practices can actually help consumers make informed decisions and support a smooth user experience.

In this area, simplification should not result in a blanket ban of certain practices, which would deprive consumers of useful information and undermine businesses' ability to communicate clearly with them. Similarly, proposals to regulate "leading" presentation of choices or dictate interface colours may stifle innovation and would contradict principles-based regulation. Expanding consumer law to cover issues such as "click fatigue" risks blurring boundaries with data protection and privacy regulations.

Addressing addictive designs: precision and a risk-based approach, not blanket bans

Concerns have been raised about certain design features that may influence how long or how much consumers engage or spend. Here too, existing EU law already provides a framework: the Digital Services Act's Article 25 prohibits dark patterns and by extension addictive designs features for online platforms, whilst the AI Act's Article 5 targets manipulative techniques for AI models[11].

Further regulating "addictive design features" may carry risks if it fails to provide clearer definitions and evidence of harm, as broad interpretations could unintentionally capture neutral or beneficial features. For example, treating all autoplay as harmful would wrongly target widely accepted functions, such as music playlist playback, that enhance user experience.

Similarly, recommender systems, already subject to data protection, privacy, and platform regulation rules, play an important role in online discovery and supporting cultural diversity. Overly broad changes could inadvertently affect legitimate practices and disrupt the user experience.

A more effective and proportionate approach would be to address specific harmful practices through principle-based rules focusing on risks, rather than imposing bans on broadly defined product features. Principle-based rules are able to adapt to different contexts and keep pace with technological, market, and behavioral changes, which rigid checklists may fail to do. Emphasizing intent and actual harm would safeguard designs that enhance clarity and consumer information, such as prompts preventing fraud or ensuring users understand contractual commitments.

[10] European Commission, Commission Staff Working Document – Fitness Check of EU consumer law on digital fairness, SWD(2024), page 2, 2024

[11] European Tech Alliance (EUTA), *Online Designs: Smarter Enforcement for a Healthier Digital Space*, 17 April 2025, available at: https://eutechalliance.eu/online-designs-smarter-enforcement-for-a-healthier-digital-space/

Personalisation done right: avoid overlaps and empower innovation

Personalisation is an indispensable part of today's digital economy. It helps consumers access products and services that are relevant and tailored to their needs, whether that's curated music playlists or customised shopping suggestions. When used responsibly, personalisation improves user experience, reduces information overload, and builds trust in digital services. 71% of consumers expect to receive personalised services from companies, and 76% express frustration when such customisation is lacking[12].

Unfair commercial practices, including exploitative or manipulative practices, are already banned under EU law[13]. Article 5 of the AI Act[14] has just recently reaffirmed this clearly as it relates to the use of AI. Additionally, the General Data Protection Regulation (GDPR)[15] and ePrivacy Directive[16] provide strong safeguards for consumers in relation to personal data processing. The DSA complements these protections by introducing obligations towards online platforms on transparency in advertising and banning profiling based on sensitive data, as well as advertising to minors.

Introducing a new set of rules to regulate personalisation would create overlaps with the GDPR, ePrivacy Directive, DSA, AI Act and unfair commercial practices directive (UCPD). This would overcomplicate compliance by subjecting businesses to multiple overlapping obligations enforced by different regulators, further creating legal uncertainty. Modifying longstanding consumer protection principles, such as the notion of "vulnerable consumers", would lead to the collection of more personal and potentially sensitive data, going against GDPR's data minimisation principle, and further hinder legal stability for companies.

Getting fair pricing for consumers: targeted enforcement, not new obligations

Challenges identified in the Fitness Check related to pricing practices should be tackled in the existing legislation, such as the Price Indication Directive (PID), which can be considered separately. Rather than introducing a new horizontal layer of regulation, the European Commission should prioritise harmonised enforcement, consistent interpretation, and targeted guidance on the application of existing rules.

EUTA is particularly concerned about the unintended consequences of measures that directly target pricing mechanisms. Dynamic pricing, for instance, can benefit consumers: it reduces waste (e.g. in perishable goods), optimises capacity (e.g. in hospitality), and widens access to affordable goods.

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[12] McKinsey & Company, "The value of getting personalisation right — or wrong — is multiplying", available at: https://www.mckinsey.com/capabilities/growth-marketing-and-sales/our-insights/the-value-of-getting-personalization-right-or-wrong-is-multiplying

[13] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market [2005] OJ L 149/22

[14] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L 2024/1689

[15] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [2016] OJ L 119/1.

[16] Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (*Directive on privacy and electronic communications*), [2002] OJ L 201/37.

At the same time, "drip pricing" should be carefully defined to distinguish between deceptive hidden fees and legitimate price evolution. There are legitimate reasons why pricing may change during the purchasing process - for example where any additional costs are displayed progressively, clearly and in a transparent manner based on users' choices or operational needs. An outright ban on presenting additional costs during the ordering process should be avoided.

Contracts: ensure meaningful transparency and clarity towards consumers

EUTA fully agrees that consumers should know what they are signing up for, and have easy channels to cancel their digital contracts at any time. The existing legal framework, most notably the revised Consumer Rights Directive (CRD) and the Unfair Commercial Practices Directive (UCPD), already provides a robust basis for ensuring transparency, fairness, and effective consumer rights.

European rules already require clear pre-contractual information on renewals and trial-to-paid conversions. Additional reminder obligations for short-term subscriptions would risk information overload and increasing phishing vulnerability. Mandatory opt-in steps to renew short-length contracts could disrupt access to legitimate services if users miss a confirmation, leading to frustration or even data loss. They also risk reinforcing "cookie fatigue", where users click through prompts without making informed decisions.

Contracts must already be easy to cancel online. Overly prescriptive rules on cancellation flows would restrict business flexibility without improving consumer protection. Existing EU laws (CRD, UCPD, and DSA) already prevent subscription traps and abusive practices. Businesses should retain the ability to communicate relevant obligations or offer retention options, provided these do not create undue barriers[17].

Europe does not lack rules on consumer protection. What is needed now is the political will to enforce them consistently and the clarity to make them work together. If focused on these elements, the Digital Fairness Act could be a genuine opportunity for businesses and for consumers.

A targeted, evidence-based approach that fills real gaps will deliver far more for consumers than a broad new layer of obligations. Upholding the high standard of consumer protection that Europeans rightly expect must, first and foremost, rely on robust enforcement and clarification of the EU rulebook. This effort should begin with a strengthened CPC cooperation though a new Regulation and a thorough assessment of the rulebook through the Digital Fitness Check.

The European Tech Alliance calls on policymakers to treat strong consumer protection and a focus on simplification and competitiveness as complementary goals. We stand ready to work constructively with the Commission, Parliament and Council to ensure the DFA delivers real, measurable benefits for European consumers and a well-functioning Single Market.

[17] For more, our EUTA blogpost "Subscription Cancellations: Enforce the Rules, Don't Rewrite Them"

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Annex I: EU Laws addressing dark patterns, misleading practices, and associated tactics

This table outlines key EU laws that contain provisions tackling dark patterns, deceptive design practices, and misleading consumer tactics. It provides a summary of the relevant provisions, their role in preventing manipulation, and the enforcement authorities responsible for their implementation.

Legislation	Year	Provisions	How It Addresses Dark Patterns	Enforcing Authority
Unfair Commercial Practices Directive (UCPD) (2005/29/EC)	2005	Article 6 (misleading actions), Article 7 (misleading omissions)	Prohibits deceptive commercial practices, including false urgency, hidden costs, and misleading information that influence consumer behaviour.	National consumer protection authorities, national courts
Directive on Consumer Rights (2011/83/EU)	2011	Article 8 (Formal requirements for distance contracts), Article 6 (Information requirements for distance and off-premises contracts)	Ensures consumers receive clear, upfront information before making purchases, addressing dark patterns that obscure key contractual details or create confusion.	National consumer Protection Authorities, CPC Network
General Data Protection Regulation (GDPR) ((EU) 2016/679)	2016	Article 7 (Conditions for consent), Article 5(1)(a) (Principles of data processing)	Requires explicit, informed consent for data collection, preventing deceptive opt-in tactics (e.g., pre-checked boxes). Targets misleading consent mechanisms.	National Data Protection Authorities (DPAs), European Data Protection Board (EDPB)
Omnibus Directive ((EU) 2019/2161)	2019	Recital 47, 54, 56	Strengthens transparency in online marketplaces, including clearer disclosures about ranking criteria and personalised pricing. Limits deceptive subscription and cancellation practices.	National consumer protection authorities, European Commission
UCPD Guidance (C/2021/9320)	2021	Section 4.2.7 (Data-driven practices and dark patterns)	Provides official guidance on how the UCPD applies to dark patterns, offering enforcement authorities a framework to assess deceptive design practices.	National consumer protection authorities, European Commission
Digital Markets Act (DMA) (Regulation (EU) 2022/1925)	2022	Article 6(1)(f) (Obligations for gatekeepers regarding consent withdrawal)	Ensures that consumers can easily withdraw consent or unsubscribe from services, preventing manipulative tactics by dominant platforms.	European Commission
Digital Services Act (DSA) ((EU) 2022/2065)	2022	Recital 67, Article 25 (online interface design and organisation)	Prohibits deceptive interface designs that manipulate users into unintended actions, such as misleading button placements or opt-out confusion.	European Commission, Digital Services Coordinators (Member State authorities)
General Product Safety Regulation (GPSR) ((EU)	2023	Article 8 (Obligations of economic operators), Annex I (Specific safety	Ensures that digital products do not use misleading or deceptive interfaces that could compromise consumer safety or lead	National Market Surveillance Authorities, European Commission

2023/988)		requirements)	to unintended purchases.	
Directive on Financial Services Contracts Concluded at a Distance ((EU) 2023/2673)	2023	Recital 41	Prevents misleading design practices in online financial transactions, ensuring transparency in terms and conditions.	National financial regulators, consumer protection authorities
Data Act ((EU) 2023/2854)	2023	Recital 38	Prohibits unfair data access practices and misleading consent mechanisms that push users into unnecessary data sharing.	National data protection authorities (DPAs), European Data Protection Board (EDPB)
Regulation on Transparency and Targeting of Political Advertising ((EU) 2024/900)	2024	Recital 75	Prevents manipulative design techniques in political ads, ensuring clear disclosures and preventing misleading targeting strategies.	National electoral authorities, European Commission
Directive Empowering Consumers for the Green Transition ((EU) 2024/825)	2024	Recital 1, 2, 3	Strengthens consumer protection against misleading sustainability claims (greenwashing) and ensures that environmental impact information is clearly presented.	National consumer protection authorities, CPC Network
Artificial Intelligence (AI) Act ((EU) 2024/1689)	2024	Articles 5(1)(a) and (b))	Introduces new prohibitions on dark patterns, without mentioning the term specifically. The AI Act prohibits subliminal techniques, purposefully manipulative or deceptive techniques or use of AI systems that exploit vulnerabilities based on age, disability or a specific social or economic situation.	Each EU Member State designates its own authorities - it could be the competition authority, the telecommunication authority or another national authority.

European Tech Alliance

About the European Tech Alliance

EUTA represents leading European tech companies that provide innovative products and services to more than one billion users[18]. Our 39 EUTA member companies from 16 European countries are popular and have earned the trust of consumers. As companies born and bred in Europe, for whom the EU is a crucial market, we have a deep commitment to European citizens and values.

With the right conditions, our companies can strengthen Europe's resilience and technological autonomy, protect and empower users online, and promote Europe's values of transparency, rule of law and innovation to the rest of the world.

The EUTA calls for boosting Europe's tech competitiveness by having an ambitious EU tech strategy to overcome growth obstacles, making a political commitment to clear, targeted and risk-based rules, and enforcing rules consistently to match the globalised market we are in.

Our members



[18] It reflects users, consumers and business customers from EUTA member companies, per year. It includes overlaps but illustrates the reach and impact of our services.