

GSMA and Connect Europe

Digital Fairness Act

Response to Call for Evidence for an Impact Assessment

Introduction

As well-established providers of connectivity solutions in Europe, Connect Europe and the GSMA agree with the European Commission (EC) that consumers play a key role in contributing to the market economy as co-drivers for a competitive single market along with providers of connectivity services. We also support the Commission's push for a Digital Single Market through simplified and harmonised rules for businesses to eliminate fragmentation.

Europe can boast of its strong consumer protection rules which are world-class. This does not mean that the current framework cannot be improved, because in order to sustain this position, the applicable consumer protection frameworks also need to evolve. We urge the EC to be bold in reviewing current rules, while at the same time exercising restraint in proposing a plethora of new ones. The current framework could already cover a broad range of the mentioned issues, but often lacks enforcement. If the Commission comes to the conclusion that new rules are needed horizontally, it should also be ensured that any new rules are also enforceable given the resources that will eventually be needed for every new administrative procedure.

Even though our response to the Call for Evidence and the associated questionnaire on the Digital Fairness Act mainly focuses on topics that are close to the nature of our businesses, such as simplification and harmonisation, we also provide responses to adjacent issues, as we believe these require further clarification.

Moreover, the Digital Fairness Act (DFA) should build up on the 2025-2030 Consumer Agenda. To this end, we advocate for the Agenda to reinforce the conditions that allow consumers to make informed choices, drive demand for high-quality and sustainable services, and support innovation. A core ambition of the EC should be to drive simplification and harmonisation across all legislative files with the aim of improving the competitiveness and financial robustness of all European businesses, while maintaining a fair and reasonable level of consumer protection.

Simplify current rules

We strongly support reducing and simplifying the information obligations under the Consumer Rights Directive (CRD). Currently, consumers receive too much information during online purchases—long texts, legal language, and technical details that they rarely read or understand. This is similar to the situation with cookie banners, where the volume of notices ends up being counterproductive. A better approach would be to limit the information to what is necessary and useful for consumer decisions. Today, the way information is presented to consumers, especially in areas like billing, can often be overly complex and difficult to navigate. This is often a result of fragmented and overlapping regulatory requirements. Addressing this challenge through greater regulatory harmonisation would help simplify communication, enhance consumer understanding, and support more informed decision-making.

Need for harmonisation

The EU aims for a Digital Single Market, but the reality is that EU consumer protection legislation provides ample room for Member States to divert, introduce additional/gold-plating measures. European businesses need conditions that enables them to operate seamlessly across borders and the core ambition for the EC should be to drive simplification and harmonisation across all legislative files, including the DFA, to facilitate an increased competitiveness and financial robustness of all European businesses while maintaining a fair and reasonable level of consumer protection already regarded as being best in class.

From sector-specific to horizontal rules

Even though not directly covered by the DFA, it is also worth looking into any sector-specific rules that comes on top of the already extensive legal framework on consumer protection. For example, telecommunications operators have to comply with horizontal consumer rules, in addition to sector-specific consumer rules. This, however, leads to unnecessary duplication and increases the burden for companies without adding any additional benefit for consumers. Most of the sector-specific rules, such as the EECC, should therefore be removed. More specifically, those rules lead to detailed management throughout the entire lifecycle of service provision: from the initial interaction with consumers, going to the provision of the service, to the end of the contract. Each step is currently regulated. If there is a gap between the sector specific consumer protection rules and horizontal consumer law, the horizontal consumer law will apply in addition.

To reduce this disproportional burden, we support the application of horizontal consumer rules in contractual matters. In this vein, increasing obligations does not necessarily result in better regulation. Thus, simplified regulations for European telecommunications operators, combined with strong horizontal and harmonised protections for European citizens, are particularly important at this time to ensure innovation and competitiveness and a strong protection for consumers.

As digital services continue to evolve rapidly, it is essential that all providers offering comparable services are subject to the same horizontal consumer protection harmonised across the EU, reinforcing trust and fairness in the digital Single Market.

Such a unified, streamlined regulatory framework would reduce compliance costs, lower legal uncertainty and increase transparency for consumers. If new consumer protection measures are introduced, they should be based on the principle of a tiered approach as found in the Digital Service Act, where measures are targeted towards those market actors being the root cause of potential consumer detriment.

Addictive Design features

For vulnerable users, such as children, we support the prevention of harmful online experiences and the promotion of safe digital habits among children and families. Through collaborative efforts, stakeholders can create a safer online environment for children.

Addictive platform design features such as autoplay, constant scroll and algorithmic recommender systems are driving societal harms, for children, for example through excessive screen time, dissemination of harmful material, radicalisation and extremism. This is not a fringe problem. A 2019 study by the European Parliament Research Service indicated that digital addiction affects millions of EU consumers. A more recent BEUC study showed that 83% of

consumers report spending more time on social media than they intended. The term ‘doomscrolling’ has entered popular vernacular.

This issue is compounded by opaque algorithms which have been found to push the consumption of content that promotes highly harmful material, such as content related to self-harm, suicide, ‘fake news’, eating disorders, misogyny, racism, and terrorism. In many cases, end-users do not even intend to access this kind of content. A recent study in the UK revealed that 59% of boys who have accessed misogynistic content came to it through unrelated searches but were pushed to this harmful content through AI algorithms.

We welcome the EC initiatives in that regard aimed at curbing the deployment of addictive design features. We support these initiatives to be particularly aimed at protecting children from exposure to addictive design features. We believe that these features can be disabled by default for minors, with the user having to exert an informed choice to activate them.

Learnings from the Digital Services Act (DSA)

Definitions and the terminology found in the most recent pieces of legislation such as the DSA and Digital Markets Act should also be preserved going forward. Furthermore, the EC’s ambition to create a Digital Single Market should be pursued in earnest by removing the ability of Member States to diverge from EU legislation. If new rules are needed the default option should always be a regulation rather than a directive, to underline the principle of harmonisation. If new measures are proposed, they should remain targeted to those actors who causes detriment to consumers. New measures under the DFA should look to the tiered approach also found in the DSA where such a principle is at the core of the measures.

Opt-in to be replaced by opt-out clause in the Consumer Rights Directive

We concretely propose that Article 22 of the CRD be reviewed. Article 22 of the CRD addresses consumer consent for additional payments. The current “opt-in” rule requires to obtain the consumer’s express consent for any additional payments. The perspective should shift to a more practical approach, i.e. an opt-out model: upon notice of changes in the contractual conditions, consumers shall have the right to terminate their contract, unless the proposed changes are to the benefit of the consumers, are of a purely administrative nature and have no negative effect on the consumer, or are directly imposed by Union or national law. The consumer should be given a defined period (until the end of the current month plus 30 days) to opt out. If the consumer does not opt out within that period, the changes would be considered as accepted.