



Considerations regarding the upcoming Digital Fairness Act

Executive Summary

The Creative and Media Business Alliance (CMBA) is an informal coalition of leading European media and creative industry organizations. Ranging from audiovisual, press, music, scientific publishing and literature, our goal is to reaffirm and support the central role our industries play within the European Union.

The media and creative sectors support effective consumer protection, fairness in digital markets, and strong safeguards for minors. European consumers benefit from professional content and media services, and these services differ materially from the digital business models that have prompted regulatory concern. Our sectors invest in and offer professional news, research and editorial and media content; depend on long-term investment and predictable revenues; operate under existing EU consumer, audiovisual, advertising, data protection, and media laws; and maintain long-standing relationships of trust with consumers.

Any new obligations under the Digital Fairness Act (DFA) should therefore distinguish between systemic problem areas and sectors where existing safeguards and market practices already deliver positive consumer outcomes. Horizontal market-intervention risks capturing services that do not exhibit the harmful practices the DFA seeks to address,

For the professional media and creative sectors, reductions in revenue predictability, advertising income, or editorial autonomy have direct downstream consequences for investment in content, cultural diversity, and Europe's global competitiveness. These impacts merit careful assessment before extending new obligations beyond sectors where problems have been clearly identified.

CMBA policy considerations and recommendations

1. Target regulatory intervention at sectors and business models where evidence shows persistent consumer harm.
2. Consider sectoral exemptions or tailored regimes for professional media and creative services.

3. Ensure that any new obligations align with existing EU legislation, including sector-specific rules.

Key Concerns Regarding Potential DFA Measures

Subscription Models and Contract Renewals

Predictable subscription revenues are critical for financing high-quality European content such as the professional press, broadcasting and scientific or audiovisual works, often long before it reaches audiences. Measures that weaken long-term subscriptions, require repeated opt-ins, reminders and confirmations, or mandate cancellation at short notice regardless of contract duration risk reducing financial stability and weakening the capacity of services to invest in original content, news and research. This risk is further amplified by an increasingly challenging advertising market and intensifying competition, making it essential to maintain a stable regulatory environment that safeguards media pluralism.

While preventing deceptive practices is essential, overly rigid rules on cancellation flows may fail to reflect legitimate user-experience considerations, such as providing information on alternative subscriptions or contextual information prior to cancellation.

Any potential new restrictions should be carefully assessed to avoid undermining popular, lawful and transparent subscription models that are well understood by consumers. Where measures are being considered, exemptions for media and creative sectors should be explored.

Right of withdrawal

Considering digital media businesses as “digital service(s)”, rather than “digital content” risks requiring they provide consumers with a wide-ranging right of withdrawal, with significant implications for the sector. This risk stems from a recent opinion from Advocate General Szpunar in CJEU C-239/25 Sky Austria v Konsumentenschutzverein. Importantly, there is a material distinction between allowing consumers to test or trial a service and allowing them to fully consume high-value content over a defined period (e.g. two weeks) at no cost.

If consumers were permitted to subscribe to a media service, enjoy the content, and subsequently withdraw while expecting a full or substantial refund, it would undermine the economic viability of subscription-based models. This concern is compounded by the potential for repeated behavior, whereby users subscribe, enjoy specific content, and withdraw in successive cycles. The issue is especially acute where consumers subscribe to access high-value, such as the latest instalment of a book series, a newly released television season, a major live sporting event, a newly released music album, or to enjoy large amounts of music during a specific event. In such cases, the value of the service is effectively

exhausted upon enjoying the content and, unlike tangible goods or other digital services, the content cannot be returned or its enjoyment reversed.

Applying a standard withdrawal regime for digital media fails to reflect the inherent characteristics of media services, in particular the irreversibility of consumption and the front-loaded nature of value delivery. A more proportionate regulatory approach is therefore warranted. This should take into account the specificities of media services and ensure an appropriate balance between effective consumer protection and the financial sustainability of digital content providers.

Editorial Design and Interface Requirements

Design features, like recommender systems and autoplay, operating in environments with editorial control are distinct from those without editorial control. For media services with editorial control, these features play an important role in discoverability, user experience, and content diversity, and do so in a way which cannot be equated to that of social media or user generated content services. In addition, professional media services already provide users with control over these functionalities and their employment. Highly prescriptive design mandates risk constraining proportionate, well-functioning media services without clear evidence of consumer harm.

Protection of Minors

The media and creative sectors recognize the importance of protecting minors and addressing legitimate concerns related to harmful or addictive design. Creative media businesses are already subject to sector-specific rules on minors' protection, age-appropriate content, and parental controls. Horizontal obligations should avoid duplicating or undermining existing regimes and should focus on demonstrable risks in the environments where those risks are present.

Mandatory age verification would be disproportionate and could deter—or even restrict—access by minors, including individuals approaching voting age, to editorially responsible online environments and the professional media content these offer. For instance, young users may altogether avoid engaging with professional news and other press platforms or educational streaming services if access becomes dependent on age verification steps.

At the same time, without reliable age assurance, media providers are likely to apply rules designed for minors across their entire user base as a precaution. In practice, this could involve restricting access to certain news topics, disabling interactive features such as comments or sharing, or limiting targeted advertising. Such a blanket approach is neither financially sustainable—given many outlets' reliance on advertising revenue—nor compatible with high-quality user experience.

Advertising and Personalization

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Advertising revenues underpin the provision of free or affordable content such as press and broadcasting. Advertising revenues also contribute to keeping the price of subscriptions lower and directly support investment for some operators in European content. Broad restrictions on personalized advertising risk affecting lawful and non-exploitative practices and reducing the economic sustainability of professional media services.

Horizontal Concepts such as Fairness by Design

High-level measures such as fairness-by-design principles, shifting the burden of proof, or an expanded concept of vulnerability risk undermining the legal framework and the legal certainty that businesses operate on today.

Conclusion

The media and creative sectors are committed to high standards of consumer protection, fairness, and responsibility. A Digital Fairness Act that focuses intervention where problems demonstrably exist, while recognizing the specificities of professional media services, would best serve consumers and Europe's cultural and economic objectives.

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