

EMMA-ENPA Contribution

Public Consultation on the Digital Fairness Act

23.10.2025

Newspaper and magazine publishers in the European Union (EU) are increasingly facing economic, competitive, and regulatory challenges. In order to ensure that press freedom and pluralism in the EU can thrive and be sustainable, the right regulatory and economic framework conditions must be created. The free press and media must remain able to operate viable business models. A free press and media are a fundamental pillar of our democracy and indispensable for a diverse and pluralistic society and act as a counterweight to an increasingly polarized digital information space with disinformation and foreign interference.

Against this backdrop, the Digital Fairness Act (DFA) could potentially impact the core of business models of the free press, particularly in areas such as digital contracts and subscriptions, as well as personalisation of advertising and services. **We therefore call on the Commission to refrain from introducing any horizontal measures that affect these business models and create additional, unjustifiable burdens for the free press.**

I. Section I – Dark Patterns

We do **not believe that any new EU-level legislation is required to address dark patterns**. The Unfair Commercial Practices Directive (UCPD) provides a solid and flexible legal framework for addressing misleading or aggressive interface design practices, including dark patterns.

The UCPD is technology-neutral and has proven adaptable to evolving digital business models. Many practices often referred to as “dark patterns”, such as misleading default settings, pressure tactics like countdown timers or concealing important information, can already be addressed through the UCPD’s general clause on unfair practices (Articles 5–9) and its blacklist of prohibited actions in Annex I.

Rather than introducing new rules, the Commission should address the issues identified in various Commission studies, namely the **insufficient enforcement of the UCPD framework** by national authorities. This could be complemented by **targeted EU-level guidance** (e.g. via the Consumer Protection Cooperation Network or the Commission) to clarify how UCPD provisions apply, as well as by raising awareness among both traders and consumers of the applicability of consumer law online.

Against this backdrop, additional horizontal regulation would increase compliance costs for businesses, including press publishers, without delivering significant added value for consumers. Should there be sufficient proof and evidence of large-scale problems surrounding these issues in certain sectors, any possible measure must be targeted so as to not unjustifiably include sectors where such issues do not exist.

To add to this, additional guidance on “dark patterns” is not only possible under the current framework — it already exists. The European Commission has issued interpretative Communications and guidance under the UCPD, clarifying how manipulative interface designs

fall within its scope. In the data protection field, the European Data Protection Board (EDPB) published guidelines on dark patterns in social media interfaces¹, providing detailed examples of prohibited practices under the General Data Protection Regulation (GDPR). Moreover, Article 25(3) of the Digital Services Act (DSA) expressly empowers the Commission to issue guidelines on the application of the DSA's provisions concerning online interface design. In other words, there is already a rich body of interpretative material available to support enforcement without the need for new substantive rules.

Recital 67 of the DSA expressly prohibits the use of “dark patterns” in the design, organization, or operation of online interfaces and acknowledges that such manipulative practices are already addressed under existing law, including the UCPD, the Consumer Rights Directive, and the GDPR. The DSA provisions thus complement — rather than replace — the broader EU consumer protection and data protection acquis. This confirms that the legal framework to tackle dark patterns is already in place; **what is required is consistent enforcement and, where useful, the further use of existing powers to issue guidance, not the creation of new substantive rules.**

With regard to the specific measures under discussion in the public consultation and the call for tenders for a study to support the impact assessment for the DFA:

- **Click fatigue**, i.e. technique that forces consumers to click through too many steps in order to be able to make the desired choice: While interface designs that require users to click through multiple steps may reduce usability or transparency, such patterns are highly context-dependent and difficult to regulate uniformly. Attempting to define legally acceptable levels of interaction would risk overregulation and fail to account for legitimate differences in UX design.
- Creating the **false impression that the consumer does not have another option** apart from the one (prominently featured) that is usually in favour of the trader: If a company hides certain choices for users, we would argue that such practices are misleading and would therefore be already prohibited under the existing consumer protection acquis. We would however stress the fact that the **mere colour coding of certain options and choices are perfectly legitimate** business and marketing practices, as long as the other options are also shown and accessible. Furthermore, as stated in recital 67 DSA, legitimate practices, for example in advertising, that are in compliance with Union law should not in themselves be regarded as constituting dark patterns. This should also apply to legitimate and well-established digital business models, as the mere act of asking a customer to pay for a product or service should not be considered as a manipulation but simply as a sale.
- **Framing and nagging**, i.e. repeatedly requesting or urging the consumer to make a particular choice: Framing — the practice of presenting choices in a leading or biased manner — and nagging — the repeated prompting of users to reconsider a previously made decision — are already addressable under current legal frameworks, as demonstrated by a recent ruling in Germany, by the Higher Regional Court (OLG) of Bamberg concerning the ticketing platform Eventim (OLG Bamberg, 5 February 2025, 3 U Kla 11/24 e). In this case, the court found that a checkout process was designed in a way that pressured users into purchasing optional ticket insurance. The design combined visual framing with a second, emotionally charged refusal button. Without any need for new legislation, the court held that this design violated existing provisions of both German and EU consumer law. This case illustrates that existing consumer protection rules are fully capable of addressing manipulative interface design with the necessary flexibility to

¹https://www.edpb.europa.eu/system/files/2023-02/edpb_03-2022_guidelines_on_deceptive_design_patterns_in_social_media_platform_interfaces_v2_en_0.pdf

consider the respective circumstances of the case. Courts and regulators already have the interpretative tools needed to identify and sanction dark patterns such as framing and nagging — reinforcing the view that enhanced enforcement, rather than new legislative instruments, should be the priority. Furthermore, repeated requests made to comply with existing law, for example in the field of data protection, should not be considered as “nagging”, as such requests are required by the law or by data protection authorities.

- **Pressuring** the consumer through urgency and scarcity claims (e.g. countdown timer) even when the respective offer or available stock is clearly limited in time: Fake countdown timers that create a sense of urgency — for example, by resetting themselves or presenting the same offer after time has expired — are widely recognised as aggressive commercial practices under Articles 8 and 9 of the UCPD. In practice, this has also been confirmed by regulatory action. In 2024, the Dutch Authority for Consumers and Markets (ACM) imposed a €1.125 million fine on Epic Games for using artificial time pressure and deceptive scarcity mechanisms in Fortnite’s in-game store. The ACM found that these practices were particularly manipulative towards children and clearly violated EU consumer protection law.
- **Confirm-shaming**, i.e. pressuring the consumer towards a particular choice through emotive language or shaming: similar to the framing issue, the existing legal framework is capable of tackling undue confirm-shaming practices. As the Eventim case highlighted above, the court found that the framing of the trader constituted undue psychological pressure towards the consumer. It shows that the current framework can effectively deal with emotive language and shaming where it is used to unduly pressure consumers into unwanted situations. In addition, simply providing information about the reasons behind a request and the consequences of each choice should be considered part of consumer information and not as “manipulative”.
- **Sneaking into the online basket**, i.e. adding new products or services to the shopping basket when the consumer is about to complete a purchase without them knowing or consenting: Sneaking products into the online basket is already prohibited under existing EU law. The Consumer Rights Directive requires the consumer’s active and informed consent to any additional payments, meaning that costs cannot be added to the basket unless explicitly agreed. Likewise, the UCPD prohibits practices that mislead or omit material information, which includes surreptitiously adding items to an order. As such, the current legal framework already ensures that no binding contract can arise without clear consumer agreement, leaving no regulatory gap to be filled.
- Features leading to a **different result than normally expected** (e.g. button marked with “cancel the contract” would lead to a page showing the benefits of that contract): Features that lead to outcomes differing from what consumers would normally expect may constitute misleading commercial practices within the meaning of Articles 6 and 7 UCPD. In particular, where a digital interface gives consumers the impression that clicking a certain button or making a specific choice will produce a predictable result — but in fact triggers a different or unintended outcome — such design constitutes a clear case of deception as prohibited under EU consumer protection law.
- **Ambiguous language** in the presentation of choices to consumers e.g. using double negatives: Ambiguous language is already fully addressed under the existing EU framework. Article 7(2) of the UCPD explicitly prohibits presenting material information in an unclear, unintelligible, ambiguous, or untimely manner where this is likely to cause the average consumer to make a transactional decision they would not otherwise have taken. This provision applies directly to misleading consent mechanisms and subscription models, ensuring that unclear or manipulative wording is already unlawful. Given this

comprehensive coverage, there is no regulatory gap that would require additional rules in this area.

- Presenting choices in a **leading manner**, for example, to prioritise an option for a given choice by using a brighter colour or larger font: Creating the false impression that the consumer has no other option is already prohibited under the UCPD, which bans misleading actions and omissions likely to impair the consumer's freedom of choice. Therefore, there is no need for additional regulation, as such practices are already covered. As for presenting choices in a leading manner through design (e.g. brighter colours or larger fonts), as mentioned under the "false impression" measure, this is not inherently problematic. On the contrary, it is part of entrepreneurial freedom to highlight one option and is common practice in advertising and online and offline designs and interfaces. As long as the alternatives remain visible, accessible, and clearly communicated, such presentation does not amount to deception but rather legitimate practices.

II. Section II – Addictive design

The very notion of "addictive design" is difficult to define with legal certainty, since many of the mentioned practices —such as autoplay, infinite scroll, or recommendation systems—can be, depending on the circumstances, equally described as legitimate design choices that enhance usability, accessibility, and consumer and reader experiences. What may be characterised as "addictive" in one context or sector is, in another, a perfectly normal and even necessary way to present digital content efficiently. Again, horizontal and broad regulation risks conflating harmful manipulation with standard business practices that are vital for the press to innovate and present attractive offerings to its readers.

Audience engagement is essential for financial sustainability: besides the fact that it is difficult to horizontally define "addictive designs", features that could be considered as infinite scroll, autoplay, and recommender systems are not necessarily "addictive" tools, but often effective and popular features that help press publishers to keep readers confronted with trusted editorial content and ensure that readers see articles and content relevant for them. Furthermore, in the context of press websites, users have to take a positive action such as clicking on a new (recommended) article to continue, and in any case the browsing is limited to the closed environment of the publication website and to the content accessible to each user – i.e., if they only have a certain amount of articles accessible for free each month, if their subscription does not cover premium / specialised content, etc. Switching such features off by default would drastically interfere in legitimate business models, affect user experience and undermine advertising- and subscription-based revenue models alike.

This especially also applies to **recommender systems** which often reflect editorial choices and reader preferences. Labelling them as "addictive" risks undermining press freedom by constraining how editorial teams curate and prioritise content and ultimately, also make the product less attractive for readers. If the Commission has evidence that such recommender systems are causing problems on certain services, for example Very Large Online Platforms, it is imperative that any measure is limited to such categories and not applied horizontally.

Restricting **design features for younger audiences** cannot be done in a horizontal, undifferentiated manner across the open internet. Failing to do so would also affect websites of newspapers and magazines, which generally are **not targeted to an audience of minors** and pose little risk. Considering that in many cases these editorial offerings are accessible, at least in part, **without account log-in, age verification or other access restrictions**, any horizontal

measure could have an impact beyond its intended scope. As such, **any measure in relation to minors must be limited to services predominantly directed towards minors**. Otherwise, the open internet would be forced to stop such legitimate practices altogether or impose access restrictions, which in turn would limit the reach of European editorial content at a time when disinformation and foreign interference is flooding our digital information space.

III. **Section 4 – Unfair personalisation practices**

Generally, the business models of the digital press rely on data processing, that is used for different purposes, such as audience measurement, analytics, distribution and provision of attractive offerings, website integrity, personalisation of advertising and content recommendations, technical measurements related to advertising (i.e., frequency capping) and metered models, as well as optimising and developing journalistic and editorial offerings, etc. Contrary to a widespread misconception, **the targeting of advertising is only one purpose of data processing, which has many applications related to improving user experience and website efficiency**.

All such applications take place within a stringent European data protection acquis that provides transparency, limitations and consumer protection. In fact, EU data protection law requires consent and information requirements for most of these purposes and website functions. Therefore, where **specific consent from the user is required, media services must be able to obtain, manage and implement consent on an individual basis directly on their websites**. At the same time, as publishers cannot be forced to offer their content for free or below market value, they must be able to make consent a condition for accessing the service.

Considering the above, personalization of digital services is of considerable importance for press publishers, and the European digital economy more generally. It allows for innovation, attractive offers for users and readers, sustainable financing opportunities for the press and media. As long as personalisation happens in compliance with the abovementioned stringent EU framework, we reject the notion that personalisation is to be considered “unfair”.

With regard to the specifics, personalisation is relevant for publishers for two reasons:

1. **Editorial publishing and offers**

Personalization for press publishers primarily means **adapting content, recommendations or services to individual reader interests and needs**. Over the years, this has become a **firmly established and desired** part of our digital offerings. Data-based business models allow publishers not only to innovate and remain attractive in the competitive digital information space, but also to understand when readers come to their websites and apps, which articles drive their interest, etc. All of these practices and more are based on analytics and allow publishers to provide a tailored and appealing offer to its readers.

Again, as mentioned in the introductory part of this section, all of these analytics and personalisation practices are carried out **in full compliance with stringent European data protection laws**. These practices have proven to be positive and beneficial for both the readers and press publishers. We therefore outright reject any attempt to classify such legitimate practices as unfair, and we see no reason or justification to introduce additional measures in this regard.

Personalised offers also allow publishers to **reach and propose access to professional editorial content to groups that might otherwise be reluctant or unable to engage, such as students, young readers, or lower-income households, by tailoring subscription models to their needs**

and preferences. These targeted offers and incentives help ensure that diverse audiences can access independent, fact-checked editorial content, contributing to a more informed society at a time when disinformation is polluting our information space. It is therefore essential that the DFA does not restrict the ability of publishers to offer personalised pricing, content and promotions.

2. Advertising

Additionally, publishers rely on **personalised advertising** to complement subscription revenue and finance their digital content. This is **the only viable advertising-driven model for publishers**, and it gives European companies, including SMEs, a chance to compete in a market dominated by digital gatekeepers' data supremacy. Alternatives, such as contextual advertising, are not viable. Consensus has emerged among media companies and press publishers at Commission workshops on the so-called "Cookie Pledge" that contextual advertising alone is not financially viable for the press and media. Examples such as the Dutch online publication [Tweakers](#), which reverted to personalised advertising for financial reasons after a period of using contextual advertising alone, confirm that publishers cannot finance their editorial operations without relying on personalised advertising. Furthermore, revenues from targeted online advertising allow people who do not wish to commit to a subscription to access and sample the content, and in turn make it possible for publishers to monetise visits by occasional readers and any reader who could otherwise not be able to afford a subscription. This broadens the possibility for citizens in any financial situation to access professional editorial content and it also contributes to keep the price of subscriptions lower, benefitting consumers.

Personalised advertising is also beneficial for readers in other ways. In fact, it increases the relevance of the ads and therefore its value, allowing publishers to reduce the amount of advertising that needs to be shown to readers. Consumers value relevance, including in advertising. They expect content that is tailored to their interests and fits seamlessly into their user experience. Advertising that fulfils this expectation not only increases user satisfaction but also improves overall acceptance of advertising. According to a study by IAB Europe in April 2025, over 50% of European consumers prefer personalised, relevant advertising to generic ads. McKinsey in 2019 came to similar conclusions: 46% of German consumers actively request personalised advertising. They prefer advertising that caters to their specific needs and interests rather than generic ads. Companies that respond to this demand create added value for users and strengthen their own customer loyalty and brand trust.

Considering that personalisation for advertising purposes in the EU is only possible within the stringent limits of the data protection acquis, which provides clear purposes and conditions for data processing, including transparency, the imposition of any further, more extensive regulation of data-based business models would unjustifiably disrupt press and media financing and consequently press and media freedom, while also undermining the necessary balance between the different fundamental rights at stake.

In this context, we are very concerned about the framing of Section 4 in the questionnaire, which is based on the unfounded assumption that personalisation is problematic and unfair. This creates a misleading and largely suggestive bias, without sufficiently taking into account the existing legal framework that provides an important level of protection.

In addition, the **potential consequences** of the proposed measures are not addressed – neither for consumers and readers, nor for press publishers and other digital services, creating an impression that the proposed measures could be implemented without any side effects when they would actually have significant consequences for consumers, data-driven businesses and competitiveness.

In summary, any proposal against personalisation, including personalised advertising, would make financing the digital press more difficult, if not impossible, in an already challenging digital environment dominated by a handful of gatekeepers. At the same time, it would not improve user experience but rather worsen it. It would lead to more ads, and, due to the lack of data, more irrelevant ones, as well as a significant rise in paywalls. In contrast, personalisation enables a pluralistic press and media landscape to remain attractive and accessible to readers.

With regard to the specific and often cited “Consent or Pay” model, it is important to ensure that these models are not misrepresented as dark patterns or undue coercion. On the contrary, these models have been developed with national data protection authorities (DPA) and courts and DPAs have confirmed their legality. Consent or pay models represent a practical, legally valid, and privacy-compliant mechanism that gives users a clear and informed choice: enter a value exchange either with data or with money.

For publishers, both those that rely heavily on advertising to finance their editorial practices as well as those with paid models that rely on the “free” parts to attract new readers, this model is economically vital. In a digital environment increasingly dominated by gatekeeper platforms, consent or pay offers a practicable and legally sound model to stay competitive and secure fair compensation for their editorial efforts.

The consultation assesses various practices that would all lead to unjustified and unnecessary restrictions for publishers. The existing legal frameworks (including the UCPD, the GDPR, the ePrivacy Directive and the Digital Services Act) already set high standards for data and consumer protection. Any further measures could easily lead to excessive and overlapping regulation, legal uncertainty, and significant negative consequences for consumers, the digital press, and competition. In detail:

- **Consumers should have more control over personalized advertising, e.g. to have a simple and effective way to refuse personalized advertising (opt-out) or to have explicitly to agree to it (opt-in):** If the consultation proposes that personalised advertising should be made conditional on users providing additional prior consent, it should be pointed out that, under current data protection law, personalised advertising based on data already requires specific consent under the GDPR. We therefore fail to understand the proposal. If the Commission intends to propose an additional opt-in regime alongside the existing consent obligations, this would result in excessive, double regulation, creating no apparent added value for consumers but significant harm for companies. Furthermore, while we would welcome a return to an opt-out regime with an information obligation, considering the GDPR and ePrivacy Directive framework, we fail to see how such a regime could realistically be introduced via the DFA.

However, **if the reference to “opt-out” relates to a centralised consent management tool that enables consumers to withdraw consent via software or browser settings, for instance, we completely oppose that notion.** This would introduce an additional layer of gatekeepers or further reinforce existing ones, preventing publishers from carrying out legitimate requests for consent on their websites. If the legal framework requires publishers to obtain individual consent to provide and finance their publications online, they must at least be able to request, obtain, manage and implement consent individually. Centralised consent managers, that could not gather the support of the Council in the ePrivacy Regulation negotiations, must be avoided.

- **Personalized advertising using information about vulnerabilities should be restricted, e.g. personalized advertising that uses special categories of personal data (i.e. sensitive data, such as racial or ethnic origin, political opinions, religious or philosophical beliefs, or health data) or that uses information on consumers' individual vulnerability (e.g. age, emotional or financial distress):** We see no need for additional restrictions on the use of personal data for personalized advertising. The GDPR already sets strict and effective horizontal limits with Articles 9 and 22(1) and (4) regarding the processing of special categories of personal data and automated decision-making. These rules are well-balanced, as they still allow for necessary, consumer-beneficial and neutral data processing in a risk-appropriate manner. In addition, Article 26 DSA already prohibits online platforms from targeting advertisements based on sensitive data. Lastly, the AI Act sets horizontal restrictions for the use of AI in this context, applicable to all sectors. This ensures comprehensive safeguards that guarantee a high level of protection.

Extending the data categories would only be sensible if such rules could be designed to be legally certain, practicable and coherent with existing legal acts. This is not possible for vague categories such as “emotions” or “financial worries”. On the contrary, if the GDPR’s principle of data minimization is taken seriously, it would be practically impossible to reliably exclude the processing of such vague categories – because one would first have to identify them in order to exclude them. Additional restrictions would therefore not lead to greater legal certainty or consumer protection, but rather to regulatory ambiguity and lack of practical enforceability. The existing legal framework is sufficient to effectively prevent misuse.

- **Consumers should have more control over personalised pricing, e.g. to have a simple and effective way to refuse personalised pricing (opt out) or to have explicitly to agree to it (opt-in):** The freedom to set prices is a key aspect of conducting a business and is not problematic in any way. For example, publishers use personalised pricing to increase readership, launch targeted promotions or provide students with affordable access to professional editorial content, and reward long-standing relationships with readers. We therefore caution against any restriction of this freedom, which we deem to be not only an undue interference in the freedom to conduct business, but also regulatory overreach to the detriment of press publishers and consumers who rely on and benefit from tailored pricing.

Such commercial practices fall within the freedom to conduct a business, a principle enshrined in the EU Charter of Fundamental Rights. Publishers must retain the ability to innovate in how they reach and retain subscribers, including through the responsible use of consumer data and personalisation.

- **Personalized advertising that targets minors should be prohibited:** Minors are already comprehensively protected under existing legislation. The GDPR sets out clear requirements in Article 8 regarding children’s capacity to provide consent. Additional safeguards apply to services specifically aimed at children (see Recital 38). These provisions provide a high level of protection that is effective across all sectors. Additionally, Article 28 of the DSA outlines specific obligations for online platforms. Among other things, these platforms may not show minors advertising based on profiling and must ensure that their services provide a high level of privacy, safety and protection for minors. Extensive guidelines have already been drawn up in this regard. Therefore, any further blanket prohibition for all providers up to the age of 18 would be incoherent and lead to legal uncertainty.

We caution against extending the DSA prohibition to all other digital services. Such measures cannot be implemented in a horizontal, undifferentiated manner across the open internet. Failing to consider this would also affect the websites of newspapers and magazines, which are generally not targeted at an audience of minors. As these editorial offerings are often accessible without a log-in, age verification or other access restrictions, any horizontal measure could have an impact beyond its intended scope. While publishers' websites are not directed at minors, the lack of access control or age verification means that publishers cannot know the age of their readers with certainty. Such horizontal prohibitions would therefore effectively ban personalised ads on all open internet services, including publishers' websites. Therefore, any measure relating to minors must be limited to services that are predominantly aimed at them. Otherwise, legitimate practices would have to be stopped altogether, or access restrictions imposed, which would limit the reach of European editorial content at a time when disinformation and foreign interference are flooding our digital information space.

- **Personalised pricing based on the personal data/profiling of particular consumers should be restricted in general or restricted only when targeting vulnerable consumers, including minors:** as mentioned above, it is a core principle of the freedom to conduct a business and press publishers must be able to tailor their offers and prices to readers and reader categories.

IV. Section VI – Unfair marketing related to pricing

The issues described in this section of the survey (e.g., drip pricing, misleading “starting” prices, and vague reference price comparisons) are already comprehensively regulated under the provisions of the EU Price Indication Directive and the UCPD. These legal frameworks already prohibit misleading price information, require the disclosure of all mandatory costs and fees upfront, and set clear rules for price reductions and comparisons. Therefore, additional EU-level legislation would not provide substantial added value in this area but might instead create duplication and legal uncertainty in a field where harmonized rules already exist and are effectively applied. Moreover, the EU rules in this field, as set out in the aforementioned Directives, are already harmonized, limiting the room for divergent or stricter national provisions while ensuring a consistent level of consumer protection across all Member States.

V. Section VII – Issues with digital contracts

Press publishers across Europe rely on digital subscriptions and (personalised) advertising as their two main sources of financing. This revenue model ensures the sustainability of independent, pluralistic and professional journalism and editorial offerings in the digital age. Any new regulatory burden placed on digital subscriptions directly impacts the financial stability of publishers and their ability to invest in reporting and editorial work, undermining press freedom and pluralism.

Existing EU consumer law already provides robust safeguards, including the right of withdrawal, transparency obligations and rules on unfair commercial practices. Introducing additional regulation risks creating duplication, legal uncertainty, and threatens to undermine the subscription models that financially support the press.

Moreover, consumers benefit from a wide range of options and flexibility in the digital press market. Digital subscriptions already offer flexible terms and allow readers to make changes as required. We are not aware of any consumer protection issues relating to press subscriptions.

New rules are therefore unnecessary, unjustified, and carry the risk of overregulating a functioning market, while needlessly putting more pressure on a sector that already struggles to find sustainable financing solutions online.

With regard to the different policy options:

- **Consumers should have an easy functionality (such as a cancellation link or a button) on the trader’s interface to exercise their right to cancel the online contract:** Press publishers already comply with strict EU consumer protection rules, including the right of withdrawal and clear cancellation information. Unless there is clear evidence of widespread issues in relation to readers being unable to cancel existing contracts and subscriptions in an easy manner, we see no reason or justification for additional prescriptive rules that would interfere with the press’s business models.
- **Consumers should benefit from more transparency, e.g. always be reminded before their subscription is automatically renewed or their free trial is converted into a paid subscription:** The existing legislation (the Consumer Rights Directive, the UCPD, the Digital Content Directive and the Consumer Omnibus Directive) strikes a good balance and already ensures that consumers are informed of the key conditions of a contract before entering into it, including trial periods, pricing and renewal terms. The proposed measure would impose additional obligations and restrictions that would have a negative impact on the acquisition and maintenance of press subscriptions at a time when press publishers are already struggling to establish sustainable online business models.

Furthermore, publishers depend on the trust of their readers to develop long-term readership of publications. Information and transparency are therefore common practice for publishers, including when existing contracts are renewed. We are therefore not aware that the existing rules are insufficient and would leave consumers exposed. Without concrete evidence of widespread issues in the sector, we see no justification for imposing new horizontal rules on press publishers.

- **Consumers should have more control over their contracts, e.g. by having the possibility to terminate an automatically extended digital subscription any time with a short notice (e.g. one month) or by having to approve explicitly the renewal of a subscription or the conversion of a free trial into a paid subscription:** Existing EU consumer law provides strong protection for consumers in relation to digital contracts. These rules also apply to press publishers and their digital subscriptions. However, press publishers, who are already struggling to monetise their content in a digital ecosystem dominated by gatekeepers, require regulatory support to enable their business models to thrive online. As such, we are concerned about the prospect of introducing new, wide-ranging measures that would make acquiring and maintaining digital subscriptions substantially more difficult.

Digital press subscriptions are already highly flexible and can be cancelled in short periods. Introducing mandatory “anytime termination” or requiring explicit approval for every renewal would interfere without any apparent reason in functioning business models and jeopardise subscription revenues and financial stability. Introducing extra steps, such as the approval of a renewal, would negatively impact press subscriptions and as a results make it more difficult not only to maintain editorial operations, but also to invest in new and innovative offerings and digital formats that readers expect.

Subscription continuity is not an unfair practice, but a necessary feature of sustainable financing. Coupled with existing consumer protection laws and transparency obligations, it strikes the right balance. Consumers who no longer wish to subscribe already have clear and simple ways to cancel. In the absence of concrete evidence of widespread issues, we see no justification for imposing new horizontal rules on press publishers.

Such contracts, for example free trials that convert into a paid subscription, are essential for publishers to acquire new readers and raise awareness of their professional, editorial offerings. These contracts are popular amongst readers as it allows them to trial a digital newspaper or magazine and to assess, whether or not they would like to continue to have access to this professional content. At the same time, these contracts happen in full compliance with existing consumer law, provide clear terms and transparency. Considering the existing stringent framework, we would consider measures that would introduce the obligation for consumers to actively accept the renewal or conversion as unacceptable. Publishers are obliged to provide the necessary information and consumers have effective rights, including rights of withdrawal and flexible cancellation policies. We see no justification for such drastic interferences in existing and functioning business models.

- **Consumers should have a right to request to communicate with a person in case of a problem with their contract, not only an automated chatbot:** Press publishers rely on the trust of their readers, as well as the long-term relationships they build with them. As such, they have an interest in fostering these relationships. However, publishers also follow technological advancements and efficient ways to support their readers, which may include technological support in certain circumstances and for specific issues. We do not believe, however, that EU regulation should dictate how publishers handle customer support, thereby creating additional compliance burdens. Any new measure will require adjustments and come with compliance burdens. In the absence of concrete and widespread evidence, we see no justification for imposing new horizontal rules on press publishers.
- **Specific measures should be taken to protect consumers online in the context of automated contracting (Automated contracting refers to the use of Artificial Intelligence (AI) for autonomous conclusion of contracts, such as via digital assistants or smart devices):** EU consumer law already covers general contract formation and unfair practices. Furthermore, consumers have extensive withdrawal rights, including the right to withdraw within the first two weeks. Introducing new horizontal requirements for automated contracting could create confusion and impose disproportionate burdens where no issues are apparent, despite existing consumer law already providing sufficient protection.

VI. Section VIII of the questionnaire: Simplification Measures

Generally, we would welcome simplification measures that would effectively reduce bureaucratic burdens for press publishers. However, based on the options outlined in question 2, we fail to recognise the added value and overall necessity.

In particular, when it comes to the right to withdrawal, we do not see how such changes would improve the situation. The existing two-week right to withdrawal is used by consumers and readers. Publishers understand the legal framework and have adjusted to it. We are not aware of any issue within our sector and, should there be problems in other sectors, we recommend that

these are addressed in a targeted manner so as not to disrupt a system that proves functioning for publishers.

In response to Question 7 of this section of the survey, we equally see no need for new EU legislative action in the identified areas to reduce any alleged single market fragmentation. The suggestion that new legislation is required to promote the internal market due to divergent national rules or judicial interpretations must be firmly rejected in such general terms.

In the field of commercial communications and advertising, including personalisation, the relevant areas are already governed by fully harmonised EU legislation, including but not limited to UCPD, the GDPR and the ePrivacy Directive. While varying interpretations by national authorities and courts do occur, these are a result of circumstances at national level and of the margin of discretion, that, for example, EU Directives allow to Member States precisely for such cases. Greater alignment within these frameworks can effectively be addressed through targeted guidance by the Commission. Ultimately, it is the Court of Justice of the European Union (CJEU) that ensures uniform interpretation of EU law. Introducing new legislative instruments would risk reopening well-settled frameworks, thereby delaying legal certainty rather than advancing it.

VII. Section IX – Horizontal issues

We are generally critical of horizontal provisions applicable across the digital industry because they do not take into consideration the necessary nuances and differences between the different digital services and offerings. Therefore, a one-size-fits-all approach is not advisable. More specifically:

- **Age Verification in the DFA Context:** We share and support the EU's goal of effectively protecting children in the digital space. However, its effectiveness depends on the specific design and proportionality of such protection.

Existing obligations, including those under the DSA, the Audiovisual Media Services Directive (AVMSD), or national implementation should continue to form the primary legal framework, as they are targeted to specific services and better suited to specific national circumstances and requirements. A blanket, undifferentiated additional platform-based age verification would not only unnecessarily duplicate the existing legal framework but complicate compliance and thus hamper the enforcement of regulations for the protection of minors.

Moreover, and as mentioned above in the section on unfair personalisation practices, extending to all digital services and offerings the existing DSA obligations to protect minors on online platforms must be avoided. Such a horizontal and undifferentiated approach across the open internet would be technically challenging, raise data protection concerns, and lead to significant costs for publishers. It would also undermine without any justifiable reason the business models of the free press and media in the open internet. These editorial offerings are generally not targeted at minors but would be equally affected by such as horizontal and undifferentiated approach and incur unjustified compliance burdens and access restrictions.

Additionally, the general term “minors”, which essentially refers to everyone below the age of 18, run counter to the differentiated age rating systems in place in many Member States, which have proven to be an effective and differentiated means of protecting minors. Establishing a simple age limit of 18 risks excluding young citizens from relevant cultural, educational, or entertainment content suitable for their age and beneficial for development. A proportional and risk-based approach to age verification systems is

essential, for example to differentiate between professional editorial content and harmful content.

- **Fairness by design:** From a press publishers' perspective, imposing "fairness by design" rules on digital offerings, including subscriptions, is unnecessary, disproportionate, and harmful. Publishers and their digital offerings are built on trust towards their readers. A digital newspaper or magazine is not a source of systemic consumer risk or harm, whereas this may be the case for large online platforms and gatekeepers. As such, existing EU consumer protection law already provides robust safeguards and the necessary level of flexibility. Additional obligations would increase compliance costs, reduce innovation, and undermine the financial sustainability of independent journalism, with no clear added value for consumers.
- **Reversal of burden of proof:** It is already recognized in national laws that there are different levels of burden of proof. Against this background, we are strictly opposed to the introduction of a general reversal of the burden of proof. Reversing the burden of proof as a general principle in consumer protection law raises significant legal and practical concerns. First and foremost, such a shift would undermine the fundamental rule of law principle that the party asserting the claim must provide evidence to support it. Presuming a company's wrongdoing unless proven otherwise effectively treats them as guilty until they can prove their innocence, which is a dangerous precedent in any democratic legal system.

Furthermore, even in cases where there might be information asymmetry in the digital economy, reversing the burden of proof is not a proportionate or balanced solution. It risks placing an unreasonable legal and administrative burden on businesses, particularly SMEs, which may be forced to document and justify every aspect of their operations — often to prove a negative. This could lead to excessive compliance requirements, legal uncertainty, fraudulent lawsuits attempts and a chilling effect on innovation.

- **The definition of consumers and rethinking the legal consumer standard in the digital context:** We do not support a revision of the current legal definition of the average consumer. This standard, as established by the CJEU and long embedded in consumer law, provides a balanced and workable benchmark that allows for consistent application across Member States. Lowering the standard would create significant legal uncertainty.

The focus should instead be on strengthening enforcement against misleading practices and promoting digital literacy, especially among vulnerable groups, by providing targeted educational programs, practical guidance on safe and informed online behaviour, and easy-to-understand resources that help users navigate complex digital services. This includes initiatives in schools and community centres, public awareness campaigns, as well as supporting tools that make digital practices more transparent and accessible.

If any adjustment were to be considered at all, it would logically have to go in the opposite direction: towards a higher level of informed and self-determined consumer decision-making. The digital skills of consumers are continuously improving, and consumers are accustomed to operating daily in digital environments. Lowering the standard would ignore this reality and ultimately disempower consumers while placing unnecessary burdens on consumers and companies.

The focus should therefore not be on redefining the consumer standard, but rather on promoting media and digital literacy, on transparent information, and on the consistent enforcement of existing consumer protection rules.

- With regard to commercial practices targeting **consumers with vulnerabilities**, we acknowledge the importance of protecting particularly vulnerable groups of consumers. However, the existing legal framework is already clear and comprehensive: the GDPR, in Articles 9 and 22, sets strict limits on the processing of sensitive data (e.g. racial or ethnic origin, political opinions, religious beliefs, health data, or sexual orientation) and on automated decision-making processes, the DSA prohibits online platforms to use such categories of data as a basis for profiling, and the AI Act introduces additional horizontal restrictions on the use of AI. Thus, effective mechanisms already exist to ensure protection also in the digital environment.

An extension to vague or difficult-to-define categories such as “emotions,” “financial worries,” or other personal vulnerabilities would neither lead to greater consumer protection nor to increased legal certainty but rather create regulatory ambiguity and considerable enforcement challenges. To prevent abuse, no new statutory restrictions are therefore required. Focus should be placed on effectively enforcing existing provisions and strengthening their practical implementation.