

ACT Position Paper on the Digital Fairness Act

Position Paper

Introduction

The Association for Competitive Technology (ACT) welcomes the European Commission's objective of strengthening consumer protection in digital markets while also advancing the simplification agenda and greater coherence of the EU regulatory framework. Ensuring a fair and transparent online environment for consumers is a shared priority, and we fully support efforts to maintain high levels of protection across the EU digital single market.

Consumers and small businesses are subject to an evolving legislative framework, including the Digital Services Act (DSA), the General Data Protection Regulation (GDPR), the Unfair Commercial Practices Directive (UCPD), the Consumer Rights Directive (CRD), the Artificial Intelligence Act (AI Act), and the Audiovisual Media Services Directive (AVMSD).

The main challenge is not the absence of adequate rules, but rather their increasing complexity, overlap, and different implementation across Member States. This creates legal uncertainty and compliance burdens, particularly for startups, scaleups, and small and medium-sized enterprises (SMEs), which often lack the resources to navigate multiple and sometimes duplicative regulatory obligations.

In this context, any new initiative, including the Digital Fairness Act (DFA), must prioritise simplification, legal clarity, and consistent enforcement of existing rules, rather than introducing additional layers of regulation that risk further fragmentation of the Single Market.

Why the Digital Fairness Act Matters for SMEs and Startups

Consumer trust is central to the success of digital businesses. SMEs and startups are fully committed to ensuring safe, transparent, and fair online experiences, as their growth depends on user trust and reputation.

However, regulatory complexity is a structural challenge for smaller businesses. SMEs often lack in-house legal and compliance teams, meaning that each additional or unclear obligation directly increases operational costs and reduces resources available for innovation and investment.

Many of the practices that are likely to be targeted by the DFA are already covered under existing EU law:

- The GDPR provides a comprehensive framework for lawful data processing, transparency, and user rights.
- The DSA addresses transparency in online advertising, prohibits sensitive targeting for ads, bans advertising targeting minors, and introduces obligations on interface design.
- The UCPD prohibits unfair, misleading, and aggressive commercial practices, including subscription traps.
- The CRD regulates pre-contractual information, withdrawal rights, and cancellation mechanisms.

Given this framework, the introduction of new or overlapping obligations risks legal uncertainty and regulatory duplication rather than improving consumer protection outcomes.

Conclusion

ACT supports the European Commission's objective of ensuring a fair and transparent digital environment for consumers. However, this objective should be achieved through simplification, coherence, and enforcement of existing legislation rather than new overlapping obligations.

The EU already has a comprehensive and robust consumer protection framework. The priority now is to make it work better together, not to add further complexity.

A Digital Fairness Act focused on clarification, coordination, and enforcement would strengthen both consumer protection and the competitiveness of Europe's SME-driven digital ecosystem. By contrast, additional layers of regulation risk increasing fragmentation, compliance costs, and legal uncertainty without delivering meaningful added value for consumers.

Principles That Should Guide the Digital Fairness Act

To ensure both strong consumer protection and a competitive innovation ecosystem, the DFA should be guided by five principles:

1 Simplification and coherence as the primary objective

The DFA should not introduce new layers of obligations where rules already exist. Instead, it should clarify how the GDPR, DSA, UCPD, CRD, and related instruments interact in practice, addressing overlaps and legal uncertainty.

2 Stronger and more consistent enforcement of existing rules

The priority should be effective implementation across the Single Market. Better coordination between the European Commission, national authorities, Digital Services Coordinators, and data protection authorities would ensure consistent enforcement and reduce fragmentation.

3 Principle-based and technology-neutral regulation

Digital services differ by design and business model. Regulatory frameworks should remain flexible and risk-based, avoiding prescriptive or rigid design requirements that may undermine innovation and user experience.

4 Targeted action only where genuine regulatory gaps exist

Before introducing new obligations, the Commission should clearly demonstrate where existing legislation is insufficient. Evidence-based proposals and regulatory fitness checks should remain central.

5 SME-friendly implementation and support

Where new measures are considered, SMEs and startups should be supported through practical guidance, best practices, and proportionate enforcement approaches that reflect limited compliance capacity.

