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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2026) 1102 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT Accompanying the documents Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on promoting fair business-to-consumer commercial practices in the offline and digital single market, and repealing Directive 2005/29/EC (Digital Fairness Act) and Proposal for a DIRECITVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2011/83/EU and 2002/58/EC as regards simplification of Union consumer protection rules

Delegations will find attached document SWD(2026) 1102 final.

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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the documents

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on promoting fair business-to-consumer commercial practices in the offline and digital single market, and repealing Directive 2005/29/EC
(Digital Fairness Act)

and

Proposal for a DIRECITVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directives 2011/83/EU and 2002/58/EC as regards simplification of Union consumer protection rules

{COM(2026) 1100 final} - {SEC(2026) 1100 final} - {SWD(2026) 1100 final} - {SWD(2026) 1101 final}

Executive Summary Sheet

Impact assessment report for the initiative on a Digital Fairness Act (DFA)[1]

A. Need for action

What is the problem and why is it a problem at EU level?

In the digital environment, unfair commercial practices affect consumers at scale, driven by information asymmetry between traders and consumers and the commercial exploitation of behavioural biases. Deficiencies in the current regulatory framework, linked to unclear rules, regulatory gaps and varying legal approaches, limit its effectiveness in addressing the speed at which such practices develop. As a result, **consumers' decision-making is distorted**, leading them to take decisions that go against their interests. **Businesses** on their side operate in an **unfit regulatory environment and face unfair competition**.

The identified problems are manifested in six main types of problematic practices: **dark patterns** (digital interface design features that can influence consumers to take decisions they might have not taken otherwise), **spending- and attention-maximising features** (features designed to keep consumers spending more time and money), **unfair personalisation** (personalised advertising or pricing that targets vulnerable groups or exploits situations of consumer vulnerability), **problematic influencer marketing** (unclear disclosure of commercial content and promotion of harmful products), **unfair pricing practices** and **issues with digital contracts**.

These challenges are intrinsically cross-border and systemic, arising from digital markets that operate across the EU. They lead to substantial financial **consumer detriment** of at least 10.3 billion EUR in 2026 and up to EUR 16.7 billion in 2035, as well as significant time loss. They also impact consumers' mental and physical health, as well as well-being, both directly and indirectly, with vulnerable consumers, especially minors, being particularly at risk. Finally, they translate into **missed business opportunities** as a result of unfair competition and reduced consumer trust.

What should be achieved?

The **overall objectives** of the initiative are to provide a high level of protection for consumers, including minors and other vulnerable consumers, in the digital environment, while ensuring that consumers and businesses can fully benefit from a better functioning of the internal market. More **specifically**, the initiative aims to reduce the detriment that consumers, including minors and other vulnerable groups, suffer as a result of problematic digital practices, to improve traders' compliance with consumer protection rules in the digital markets, and to provide a more harmonised set of rules for consumers and businesses to facilitate cross-border transactions.

What is the value added of action at the EU level (subsidiarity)?

Consumer protection belongs to the shared competences of Member States and the EU. **Action only at Member States level cannot adequately address the problems.** Nearly all EU citizens and the majority of EU businesses are affected by the identified problems, which largely originate from practices of businesses that operate across national borders. In areas fully harmonised by the Unfair Commercial Practices Directive, Member States are unable to act unilaterally to resolve legal uncertainty at EU level, which increases the risk of divergent interpretations. Where Member States act to address issues not yet fully harmonised at EU level, they also tend to adopt divergent approaches, creating obstacles to cross-border activities of businesses and fragmenting the internal market**.**

There is a consensus about the EU added value of the harmonised rules in the digital area to traders

[1] SWD(2026) 1101

and consumers across the EU. The EU digital rulebook has already strengthened the protection of consumers with regard to specific aspects, or specific types of traders, but needs to be complemented by strengthening the horizontal consumer protection which acts as a safety net. Fully harmonised EU rules will also contribute to more effective enforcement. Together with the parallel review of the Consumer Protection Cooperation Regulation, this would reduce the possibility for incompliant traders, including from countries outside the EU, to compete unfairly.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

The impact assessment presents **six distinct sets of policy options**, designed to address each of the six types of problematic practices identified. For each problematic practice, the analysed policy measures were grouped into 3 or 4 policy options, each prioritising a specific focus and increasing in the level of prescriptiveness. A legislative initiative is foreseen in the **Consumer Agenda 2030** and the **2026 Commission Work Programme** and was among the initiatives announced in the **2026 State of the Union address**.

The overall preferred option consists of a package of the options selected, based on their effectiveness, efficiency and coherence to address each type of problematic practice, plus the independently assessed and retained horizontal and simplification measures

1. **On dark patterns**, a general prohibition of B2C dark patterns as unfair commercial practices would be introduced, coupled with a flexible list of dark patterns prohibited in all circumstances. An overlapping provision in the Consumer Rights Directive would be removed.
2. **On spending- and attention-maximising features**, consumers would be given greater control, with increased protections for minors. A clearer definition of "transactional decision" would be provided to account for actions resulting in prolonged use of a product or service. Transparency requirements would be introduced to ensure that consumers are aware of the real value of in-app purchases when using virtual currencies. Consumers would be informed about the probabilities for winning when buying virtual items with uncertainty-based rewards (loot boxes) and would be able to switch them off. Some spending-maximising features would be prohibited for minors, with the remaining turned off by default. Self-regulation for video games would be supported, and video games would have to display an age-appropriate rating. All consumers would be able to turn off attention-maximising features. For minors, these features would be turned off by default and some prohibited.
3. **On unfair personalisation**, personalised advertising would be prohibited when targeting minors, when it is based on special categories of personal data as defined under the GDPR, or when based on information on the consumers' vulnerabilities. Personalised pricing would be prohibited towards minors or when based on consumers' vulnerabilities, if leading to less favourable results.
4. **On influencer marketing**, a definition of influencer marketing as commercial practice would be introduced, together with clarifications of the obligation to saliently disclose commercial content. Influencers who do not directly sell to consumers would be exempted from the obligation to disclose their geographical address, simplifying the applicable framework. Other actors in the influencer marketing chain (e.g. brands and advertising agencies) would have to ensure that the influencer marketing complies with EU law. Influencer marketing of certain harmful products towards minors, such as high-risk financial products, sports betting or gambling would be prohibited.
5. **On unfair marketing related to price**, transparency for consumers would be increased, by requiring that the real-time evolution of the price and the maximum price is displayed when consumers are waiting in a virtual queue for their chance to buy. "Drip pricing" and specific misleading techniques in price comparisons would be prohibited. In a dynamic pricing context, traders would need to disclose how many items are available to consumers at the advertised price.

6. **On issues with digital contracts**, to address some of the most common 'subscription traps' consumers would receive a reminder before the start of a paid contract period after a free trial and would have to actively accept the paid contract. Consumers would also receive a reminder before a paid subscription is automatically renewed and would be able to terminate an automatically extended subscription any time with short notice. Traders would have to provide an easy cancellation facility. To facilitate the take-up of automated contracting solutions that safeguard consumer rights, consumers would be able to set parameters of automated systems used in contracting. Information requirements for traders would be reduced for contracts fully automated on the trader and consumer side. Consumers would have the right to access a human interlocutor in customer services.
7. **On horizontal measures**, the definitions of "average consumer" and "vulnerable consumer" would be updated to account for the specificities of the digital environment. The burden of proof would be eased in technologically complex cases. A general fairness-by-design obligation would be introduced, without being linked to specific testing, documentation and/or reporting requirements.
8. **On simplification measures**, a number of current obligations under consumer law would be made lighter to facilitate compliance by traders while continuing to ensure effective consumer protection. Traders would no longer need to provide mandatory pre-contractual information about the right of withdrawal when the consumer explicitly agrees to receive immediate access to online digital content. For digital media subscriptions, the current 14-day right of withdrawal would be replaced with a right to cancel the contract during the first month, subject to paying the full subscription fee for that month thereby simplifying processing. Information requirements would be reduced for repeat in-app purchases.

Most measures in the preferred option would update existing consumer law instruments. First, unfair or undesirable commercial practices by traders are already governed by the UCPD. It therefore appears suitable to amend and supplement the UCPD, which is being transformed to a Regulation, to allow for the inclusion of most measures included in the overall preferred option. Second, the preferred option would amend the CRD to reflect the simplification measures included in the overall preferred option. As regards the protection of minors, some of the specific measures addressing minors included in the overall preferred option have been integrated in the proposal for an EU KIDS ACT which the Commission presented in September 2026, taking into account the recommendations of the co-chairs of the Special Panel on Child Safety Online.

What are different stakeholders' views? Who supports which option?

Overall, **stakeholders across the consultation activities** (including public consultation, call for evidence, stakeholders' surveys, behavioural experiments, targeted stakeholders' consultations and interviews) confirmed the identified problems and broadly supported action at EU level.

Consumers, consumers associations, children, academia, NGOs and consumer protection authorities are broadly supportive of the measures retained in the preferred policy option. **Businesses** are hesitant about any new legislation; however support is noticeably higher among SMEs.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

The overall preferred option is expected to be very effective in **reducing consumer detriment**, as it directly targets harmful practices that impair decision-making through stronger safeguards, opt-outs, default protections and specific restrictions for minors. Large reductions in financial consumer detriment are expected of EUR 88.4 billion over the period 2025-2035 - with strong benefits for vulnerable consumers and minors. In addition, the preferred option is expected to result in a reduction of monetised time loss of EUR 72.3 billion for consumers. Monetised mental health benefits are estimated between EUR 2.7 billion and EUR 18.5 billion per type of problematic practice. The overall preferred option is also expected to be effective in **improving traders' compliance** by addressing unfair competition as it introduces stronger, clearer, more

uniform safeguards and is expected to significantly reduce the scope for traders to compete through exploitative or borderline practices. The DFA study points to potential revenue gains and redistribution effects for certain options from currently non-compliant businesses towards compliant ones, and from large incumbent companies to SMEs. Finally, the preferred option is expected to facilitate cross-border transactions by **harmonising legislation** across the EU.

What are the costs of the preferred option (if any, otherwise of main ones)?

The **yearly recurrent costs for business** are estimated at EUR 1.2 billion without adjustment, and EUR 678 million adjusted to take into account cost overlaps between the measures and across types of problematic practices.

What are the impacts on SMEs and competitiveness?

For SMEs, the **revenue increase** is expected to be higher than the expected increase in one-off and annual costs, leading to an overall benefit of EUR 98.9 billion over 10 years (in NPV) for the preferred option, with an adjustment factor applied. SMEs will especially see positive impacts due to the preferred option measures that cover spending- and attention-maximising features and contracts, and to some extent personalisation.

The preferred policy option is compatible with the **EU competitiveness objectives**. It does not induce systemic cost or innovation disadvantages and provides net gains for SME competitiveness, while steering innovation and competition towards more sustainable and trust-based market dynamics. The competitiveness impacts are therefore best characterised as balanced, forward looking and structurally supportive, rather than restrictive.

Will there be significant impacts on national budgets and administrations?

No, the preferred policy option is expected to lead to **a small increase in direct enforcement costs** for Member States, around EUR 5-8 million per year at EU 27, concentrated mainly in the initial implementation phase.

How does the preferred option comply with the principle of proportionality?

The package of preferred measures **would not go beyond what is necessary to achieve the objectives**. It meaningfully reduces consumer detriment, provide for improve compliance and harmonisation while preserving business model adaptability and favouring less prescriptive alternatives. Regulatory intensity is also aligned with the likelihood and severity of harm, particularly where consumers are less able to protect their own interests, such as minors or vulnerable consumers.

D. Follow up

When will the policy be reviewed?

The initiative will include an **obligation to carry out an evaluation** after a specific time after the implementation of the relevant measures.