

A big week for the Digital Fairness Act: nine things we have learned

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Last week was a turning point in the building momentum around the Digital Fairness Act (DFA). What was once a diffused debate, spanning national initiatives, stakeholder calls for updates to EU rules, and broader concerns about the digital ecosystems, has come into sharper focus. In the space of a few days, the Commission launched a consultation on the 2025-2030 Consumer Agenda and hosted the 2025 European Consumer Summit. Meanwhile, the European Parliament released a first draft of its INI report on the protection of minors. Additionally, just the previous week the Commission released its guidelines for the protection of minors under the DSA, which will also have an impact on the ‘gap filling exercise’ that is the DFA.

Policymakers are beginning to articulate clearer positions and signal regulatory priorities. At the same time, long-standing tensions between national and EU-level approaches and between harmonisation and subsidiarity are becoming more pronounced. Below are ten key things we have learned from last week, offering us a snapshot of the dynamics that will be at play when it comes to the DFA.

1. THE WORD OF THE WEEK: FRAGMENTATION

“Fragmentation” emerged as a key theme of the week. For industry, the fear is that the DFA will become a de facto 28th regulatory regime, adding complexity rather than coherence. Their concern lies in overlapping obligations with existing frameworks like the DSA, the DMA, the GDPR, and AI Act to name a few. But for policymakers, fragmentation is precisely the problem the DFA is meant to solve. It appears that the Commission is gearing up to argue that without EU-level regulation, the internal market may be jeopardised. This line of reasoning will be central to justifying the DFA under the principles of subsidiarity and proportionality. In other words, the Commission is positioning the DFA as a harmonising tool.

2. SHIFTING THE BURDEN OF PROOF

Civil society and academic actors are increasingly influential in shaping the discussion around regulatory

responsibility. One recurring proposal is to shift the burden of proof from users to platforms and service providers, particularly when it comes to protecting vulnerable consumers. This means introducing ex ante obligations that proactively ban addictive design and enforce accountability. The underlying principle is that fairness should be designed into digital environments, not retrofitted after harm occurs. This perspective is gaining traction and will likely influence the final shape of the DFA, particularly if institutions move towards more centralised, proactive enforcement mechanisms.

3. CHILDREN ARE ON EVERYONE’S MIND

The protection of minors is a key focal point of the digital fairness agenda. Across both the Commission’s consultation and the European Parliament’s draft INI report, a consistent concern emerged: the existing framework is not enough to ensure child safety online. The GDPR, AI Act, and DSA all contain pieces relevant to the protection of minors, but gaps remain. This echoes findings from our [own research report](#), which showed that the French public rank child protection as the top online safety concern. Policymakers are converging on the need for new, enforceable safeguards, with age verification vs age estimation emerging as a particularly hot topic.

4. VIDEO GAMES TAKE CENTRE STAGE

EU stakeholders have taken a close look at video games for concerns about harmful practices. The European Parliament's draft INI report dedicates substantial attention to the issue, calling for an update to the Unfair Commercial Practices Directive (UCPD) blacklist. The intention is to lower the burden of proof for consumers, enabling more effective enforcement when it comes to concerns about loot boxes, in-app currencies, and pay-to-win mechanics. However, questions about more complex concerns of how to balance this with proper monetisation of app development remain outstanding. Industry voices warn that removing certain monetisation options could result in unintended consequences, such as fewer free products.

5. QUESTIONS ABOUT SUBSCRIPTION MODELS

Subscription models have emerged as another key issue, both in Member State activity and in the Commission's consultation. National-level reforms (such as Germany's existing rules and Spain's currently tabled measures) indicate that subscription practices are under increasing scrutiny. At the EU level, the call for evidence on the 2025-2030 Consumer Agenda asked about consumer vulnerability in areas such as subscriptions, in-app purchasing, and dark patterns. This growing focus suggests that the DFA could become a tool to address these practices more systematically.

6. GEOPOLITICS AND PRODUCT SAFETY

Consumer protection is increasingly entangled with global trade and geopolitical concerns. We have already seen this take root with the DSA and DMA. At the European Consumer Summit Commissioner McGrath underscored the need for greater international cooperation, including plans to engage manufacturers in China directly. Product safety, pricing transparency, and shrinkflation were all cited as areas needing urgent attention. Customs reform, which could see platforms held more responsible for imports, also featured prominently. Yet the discussion revealed a core challenge: national authorities face serious resource constraints, making it difficult to scale and ensure proper enforcement (especially when dealing with cross-border issues). Some raised the possibility of launching infringement proceedings against non-compliant Member States and suggested strengthening the council format to ensure more systematic compliance.

7. THE EUROPEAN PARLIAMENT: KEEPING A WATCHFUL EYE ON THE DRAFT INI REPORT

Although the draft INI report will not be binding and is subject to amendment from other political groups, it provides a glimpse into the tone the European Parliament could adopt. Its recommendations currently strongly echo the Commission's consultation priorities, especially on

protecting minors and addressing dark patterns. However, it currently goes a step further, calling for blacklists and bans, where the Commission is uncertain about the path it will take. The outcome of the report will be an important test for how far the EP is willing to go and how aligned it will be with the Commission as the DFA starts becoming more defined.

8. THE EUROPEAN COMMISSION: READY TO CENTRALISE

The Commission appears ready to push for a harmonised approach to digital fairness, with increasing emphasis on centralised enforcement and binding rules. The push for greater EU-level powers reflects a growing willingness among institutional actors to move beyond minimum harmonisation and patchwork enforcement. This approach positions the DFA not just as a consumer protection measure but as a strategic initiative to strengthen the single market and promote a level playing field across the EU. If successful, it could lead to a significant shift of enforcement responsibilities from Member States to EU institutions. That being said, the decision of whether the DFA should be presented in the form of a Directive, or a Regulation is yet to be made. Some stakeholders worry that a Directive would only exasperate the fragmentation issue, while we anticipate a stronger push back from the Member States if a Regulation were selected.

9. NATIONAL AUTHORITIES AND THE COUNCIL: MAY WANT TO PROTECT NATIONAL COMPETENCES

With a view of the dynamics that will take place in the Council it is clear that many Member States will have a strong preference for focusing on enforcement instead of substantive legislative reform. While national authorities broadly acknowledge the need for stronger enforcement, many express reservations about centralising powers at the EU level. The emphasis on legal traditions, domestic enforcement capacities, and resource constraints suggests that Member States are likely to resist a full transfer of responsibilities. This is something that we have already seen the Commission attempt to pre-empt in its approach to discussions related to the DFA, focusing on the single market justification. Instead, at the national level there is growing interest in enhancing the CPC Network, which is seen as a more flexible and nationally grounded mechanism. The outcome of Council negotiations will likely hinge on whether a compromise can be reached that preserves national competencies while addressing the EU's enforcement gaps.

A CLOSER LOOK AT KEY MEMBER STATE DEVELOPMENTS

Several EU Member States are advancing divergent national initiatives based on differing policy priorities on issues that could be tackled in the DFA. This increases worries of an increasingly fragmented regulatory framework that could undermine the integrity of the EU single market. Below, we take a closer look at key current developments at the member state level as to provide an overview of what the Commission is considering as it prepares its work on digital fairness.

MEMBER STATE	STATUS	WHAT IS IT ABOUT?	CONTENT
Germany	In force (2022)	Online subscriptions	The Fair Consumer Contracts Act (Faire-Verbraucherverträge-Gesetz) introduced rules to strengthen consumer rights in digital markets, particularly regarding contract duration and cancellation procedures. Key measures include restricting overlong automatic renewals and introducing a mandatory online cancellation button for digital services. These rules directly address concerns about consumer lock-in and dark patterns.
France	In force (2023)	Influencer marketing	The EU's first law specifically regulating social media influencers, establishing legal responsibilities, transparency obligations, and advertising restrictions. Influencers must now comply with national advertising laws and, if based outside France, appoint a legal representative in the country. The law also bans promotion of certain sensitive products.
CPC Network	Adopted (March 2025)	In-game virtual currencies	The CPC Network's principles on in-game currencies, spearheaded by Dutch and Norwegian National Regulatory Authorities, are non-binding but presented as an interpretation of existing laws. They frame virtual currencies as representations of real-world monetary value and call for fairer monetisation practices in video games. These principles hint at how NRAs might interpret consumer law in this area, which is likely to inform the Council's approach to the DFA.
France	Ongoing (April 2025)	Strategy on Food, Nutrition, Climate & Advertising	France's draft national strategy includes tentative measures to reduce minors' exposure to advertisements for unhealthy and environmentally damaging products. While the current text does not propose a full ban, it signals a regulatory interest in digital advertising's impact on consumer behaviour.
France	Ongoing (April 2025)	Assemblée Nationale inquiry on TikTok and public consultation	The French Parliament is conducting a public consultation as part of its inquiry into TikTok's impact on youth (closing on 31 May). Topics include addictive design, harmful content, and content moderation. While legislative outcomes remain uncertain, the inquiry will inform France's broader digital policy position and likely influence its stance in DFA negotiations.

Germany	Ongoing (May 2025)	Tickets, contracts, and refunds	The new government's coalition agreement includes a plan to "introduce a general requirement for confirmation of long-term contracts initiated by telephone." Additionally, the agreement states that for smart contracts, claims for compensation or reimbursement should be enforceable digitally through largely pre-filled forms, such as in the case of online bookings. In straightforward situations, like ticket refunds, payments should be "issued automatically".
Spain	Ongoing (May 2025)	Subscription reforms and human-centric customer service	Spain is advancing amendments to its Consumer Attention Law to prohibit automatic subscription renewals unless users are clearly notified 15 days in advance. The bill also introduces minimum standards for customer service, mandating that most calls be answered by a human. This initiative promotes transparency and informed choice in subscription-based services.
Greece, France and Spain	Ongoing (May 2025)	Call for a digital majority	These three Member States have jointly called for a minimum age for social media access and device-level age verification. Their proposal includes restrictions on persuasive design (e.g. autoplay), mandatory parental controls, and harmonised technical standards. The proposal aligns with themes in the DFA around design fairness and consumer vulnerability. It also demonstrates coordinated national pressure for more prescriptive EU rules, raising the stakes for how the DFA will address minors' digital rights.
Greece	Ongoing (May 2025)	"Kids Wallet" app for age verification	Greece launched an age verification and parental control app as part of a broader strategy to reduce online harms to minors. The initiative is linked to national efforts to combat youth addiction to digital services and is being positioned as a complement to EU-level policy. The "Kids Wallet" exemplifies how national tools can operationalise digital fairness principles but also points to potential fragmentation in age verification standards.
Poland	Ongoing (May 2025)	Age verification, content moderation, and the protection of minors	Poland is preparing legislation which will incorporate the recommendations of a youth citizens' panel, which called for stronger protections for minors online. Proposed measures include secure age verification, platform accountability for harmful content, and restrictions on dangerous live streams and misinformation. Being focused on child protection, this initiative would be closely aligned with the DFA, particularly in relation to age-appropriate design, content moderation, and vulnerability.

ESSENTIAL STEPS FOR COMPANIES THAT WILL BE IMPACTED BY THE DIGITAL FAIRNESS ACT:



Monitor developments closely to understand how EU and Member State initiatives could reshape digital consumer rules.



Engage strategically in the political process to help shape the direction of emerging legislation while it is still being defined.



Track national-level trends that may influence or complicate EU-wide harmonisation efforts under the DFA and discussions in the Council.



Analyse institutional dynamics and stakeholder positions to anticipate policy outcomes and tailor your advocacy accordingly.

E: info@global-counsel.com

W: www.global-counsel.com

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