

AIG POSITION PAPER ON THE EU CONSUMER AGENDA 2025-2030 (19 May)

SUMMARY

1. The Advertising Information Group (AIG) supports the Commission's objective of strengthening consumer protection in the EU through the European Consumer Agenda for 2025-2030.
2. The advertising industry is committed to ensuring that a high level of consumer protection is maintained throughout the EU during a time of rapid technological advancement. However, these efforts must be balanced with competitiveness and legal coherence. We have the following key concerns and recommendations:
 - Making use of existing regulation and focus on enforcement, as opposed to new rules: The perceived gaps and challenges can be addressed by enforcing the existing comprehensive legal framework. Replacing principle-based rules with prescriptive rules might create a one-size-fits-all situation to the detriment of European businesses and legitimate national differences.
 - Ensuring regulatory coherence: The Consumer Agenda 2025-2030 must be closely coordinated with the upcoming Digital Fairness Act (DFA) to ensure there is complementarity and avoid conflict and/or duplication.
 - Recognising self-regulation: The advertising industry's self-regulatory framework covers 97% of EU ads and resolves 96% of complaints within one month.
 - Protect SMEs: Any new measures must undergo impact assessments, with particular attention to SMEs who face disproportionate burdens.

CONTEXT

3. The Advertising Information Group (AIG) is a pan-European network of advertising and media associations, including agencies, broadcasters, and press publishers, as well as direct marketing and online advertising.
4. Advertising plays a key role in the EU economy, contributing 4.6% of GDP, supporting SMEs, and driving growth in creative sectors. A study conducted by Deloitte showed that for every €1 spent on advertising it generated €7 for the wider European economy¹. Advertising also plays a key role in fostering brand competition, supporting product innovation while enabling a diverse and pluralistic media.
5. Consumer protection is central to the advertising industry's approach. Trust in advertising is commercially essential, which is why the industry operates a mature self-regulatory framework aligned with EU legislation.
6. The EU advertising self-regulatory system:
 - Covers 97% of adverts seen in the EU
 - Enforces at scale and with speed. For example, in 2023, it handled over 55,000 complaints, and resolved 96% within a month
 - Is coordinated by the European Advertising Standards Alliance (EASA) and based on national codes aligned with the Unfair Commercial Practices Directive



(UCPD) and the International Chamber of Commerce (ICC) Advertising and Marketing Code.

- Includes clear rules for influencer disclosures and proactive compliance initiatives such as training and certification programmes across several Member States.

7. This position paper responds to the Consumer Agenda 2025-2030 and focuses on three key themes:

- Enforcement and regulatory coherence
- Role of self-regulation
- Online consumer protection, including influencer marketing and protection of minors

ENFORCEMENT OF EXISTING RULES AND ENSURING REGULATORY COHERENCE

8. The EU maintains one of the world's most comprehensive consumer protection frameworks, with consumer protection as a fundamental right under Article 38 of the European Charter of Fundamental Rights. This framework encompasses the UCPD, the Unfair Contract Terms Directive (UCTD), Consumer Rights Directive (CRD), Audiovisual Media Services Directive (AVMSD), ePrivacy Directive (ePD), and the Digital Services Act (DSA), and has been updated several times over the past years, for example as part of the New Deal for Consumers, empowering consumers in the green transition etc.

9. This legislative framework is robust and principle-based, enabling it to adapt to technological advancements. The UCPD, for example, ensures comprehensive protection against misleading, aggressive, and unfair commercial practices through flexible principles rather than prescriptive rules.

10. In our view, current consumer protection challenges indicate different levels of enforcement rather than regulatory gaps. For example, Germany referred 504 cases to the CJEU for preliminary ruling in the last four years – double, and in some cases, triple all other Member States.¹ Notably, consumer protection was one of the top 4 subject matters of cases received by the CJEU in 2024.² In 2024, the EC-funded European Consumer Centres Network (ECC-Net) received nearly 134,000 complaints and inquiries, with only 59% of cases settled amicably,³ suggesting systemic enforcement challenges.

11. Rather than introducing additional regulation, enforcement shortcomings could be effectively addressed by ensuring that all Member States receive necessary support to improve enforcement capabilities. The Commission should prioritise developing and sharing best-practice enforcement models as the primary mechanism for enhanced consumer protection.

¹ Annual Report 2024, "Statistics concerning the judicial activity of the Court of Justice", page 10
<https://curia.europa.eu/jcms/upload/docs/application/pdf/2025-03/ra_en_statistiques_24_-_cour.pdf>

² Annual Report 2024, "Statistics concerning the judicial activity of the Court of Justice", page 6
<https://curia.europa.eu/jcms/upload/docs/application/pdf/2025-03/ra_en_statistiques_24_-_cour.pdf>

³ ECC – Spain Publishes June Newsletter with Updates on Consumer Rights <<https://portal-cec.consumo.gob.es/en/comunicacion/noticias/2025/ecc-spain-publishes-june-newsletter-updates-consumer-rights>>

12. Additional rules risk compromising legislative coherence, creating particular challenges for SMEs operating with limited compliance resources. Conflicting demands create uncertainty regarding compliance requirements, increasing costs, legal dispute likelihood, and reputational risks from inadvertent violations.
13. Current economic circumstances mean that EU businesses, including press and media companies, already operate under constrained budgets. Additional regulatory burdens would impose unnecessary economic strain when enforcement improvements could achieve better consumer protection outcomes more efficiently.
14. The upcoming Digital Fairness Act (DFA) will likely address a number of consumer protection areas. Therefore, the DFA needs to carefully coordinate with the Consumer Agenda 2025-2030 to ensure complementary rather than conflicting or duplicative approaches and not lose sight of the overall objective of preserving competitiveness.
15. Conflicting regulatory guidance from various bodies and fragmented national guidelines create interpretation challenges and legal ambiguity, impacting SMEs significantly. . Harmonising guidance and reducing fragmentation should be a primary Consumer Agenda priority.
16. The EU's long-term competitiveness faces threats from regulatory complexity disproportionately burdening SMEs. Since SMEs represent 99% of EU businesses, their struggles with regulatory navigation and compliance costs create systemic economic weaknesses, reducing innovation capacity and international competitiveness. The Consumer Agenda should prioritise enforcement harmonisation to preserve EU competitiveness.

THE ESSENTIAL ROLE OF ADVERTISING SELF-REGULATION

17. The advertising self-regulatory system provides essential consumer protection complementing legislative frameworks. Its mission is to promote legal, decent, honest, truthful and responsible advertising through national advertising codes covers 97% of ads seen by the EU consumers. National codes, either developed locally or derived from the ICC Advertising and Marketing Code, incorporate principles of the UCPD. They are also aligned under EASA's coordination, ensuring consistent standards and facilitating cross-border complaint resolution.
18. EASA's coordinating role maintains network standards, shares best practice and facilitates cross-border complaints. In 2023, national SROs handled more than 55,000 complaints relating to over 35,000 ads, resolving 96% within one month⁴ – demonstrating its overall efficiency.
19. The European Commission has previously recognised the value of self-regulation, noting that rigorous self-regulatory codes “*may indeed reduce the need for administrative or*

⁴ European Trends in Advertising Complaints, Copy Advice and Pre-Clearance, EASA, Page 4 < EASA-Complaints-Annual-Report_2023_FV_Front_and_back_cover-7.pdf>

judicial enforcement action” and serve as “useful reference point for national authorities and courts in assessing whether a commercial practice is unfair.”⁵

20. Given the self-regulatory system’s established effectiveness and its role providing additional consumer protection at no cost to public authorities, it should be formally recognised as a key Consumer Agenda initiative. This framework operates efficiently across almost every EU Member State, working parallel to legislation whilst enforcement advertising standards without requiring additional Commission resources.

CONSUMER PROTECTION IN DIGITAL ENVIRONMENTS

21. Internet developments have created novel consumer protection challenges, however the EU’s principle-based consumer protection framework already effectively addresses many of them, as described below.

Influencer Marketing and Commercial Disclosure

22. Social media’s rise as both a content creation and advertising platform has meant that brands can now reach their audiences through influencers. Concerns regarding the proper disclosure of commercial communications, particularly subtle product placement, and difficulty of distinguishing between genuine product reviews from sponsored content, are legitimate consumer protection issues.
23. The UCPD comprehensively addresses these concerns without requiring additional regulation. Failure to identify the commercial intent constitutes a misleading omission especially when it is likely to cause the average consumer to take a transactional decision they would not have taken otherwise.⁶ Additionally, Annex 1 point 22 prohibits *“falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer”*.
24. The advertising self-regulatory system actively addresses influencer disclosure obligations. National SROs across EU member states have developed awareness campaigns and training programmes covering legal obligations for commercial communication disclosure. For example, the German SRO (*Deutscher Werberat*) and the Austrian Association *“#ethicalAd - Akademie für Werbeethik”*⁷ have developed influencer training. Whilst the French (*Autorité de Régulation Professionnelle de la Publicité*) and Dutch (*Stichting Reclame Code*) SROs have added a certification element to their training to incentivise compliance⁸. Recognising these initiatives in the Consumer Agenda would enhance their legitimacy and encourage broader participation.

Dark Patterns and Manipulative Practices

25. We regret the overly broad use of the umbrella term “dark patterns” as it gives a negative connotation also to several legitimate and common practices that do not pose harm to consumers. The most serious “dark patterns”, defined as commercial practices influencing consumers to take decisions they would not have otherwise taken, fall within

⁵ Section 1.3, Commission Notice – Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market (2021/C 526/01) < <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021XC1229%2805%29&qid=1640961745514> >

⁶ Article 7(2) of the Unfair Commercial Practices Directive

⁷ More information on the training can be found on <https://www.ethicalad.at/>

⁸ More information can be found on <https://adethics.org/>

the principle-based UCPD prohibitions against manipulative practices that materially distort or is likely to distort the economic behaviour of an average or vulnerable consumer.

26. The Commission has confirmed that although dark patterns are not explicitly defined in the UCPD,⁹ “the UCPD applies to any ‘unfair commercial practice’ that meets the requirements of the material scope of the Directive, regardless of their classification. If dark patterns are applied in the context of business-to-consumer commercial communications, then the Directive can be used to challenge the fairness of such practices, in addition to other instruments in the EU legal framework.”¹⁰
27. We strongly oppose the introduction of prescriptive rules on dark patterns for digital interfaces, which would further distort competition online. The UCPD’s capability to address dark patterns should be more rigorously tested through enforcement actions across Member States rather than through additional regulation.
28. Subscriptions are still an important source of revenue from several digital services, including the press and media. In light of the objectives of the European Media Freedom Act and of the European Democracy Shield, that recognise the strategic and democratic value of the media, the Consumer Agenda should be mindful not to restrict this vital source of revenues by making it overly difficult to reach potential subscribers, to start or renew a subscription or to predict the duration of the contract. Again, the European consumer acquis is sufficiently developed to tackle possible issues in this regard.

PROTECTION OF MINORS ONLINE

29. Minors, as a type of vulnerable consumer, require protection from harmful advertising practices and not have their lack of commercial literacy exploited. However, existing EU legislation contains extensive provisions regarding the protection of minors.
30. The UCPD prohibits encouraging children to buy advertised products or persuade their parents or other adults to buy advertised products for them.¹¹ The Commission’s 2021 guidance on the interpretation of the UCPD¹² provides useful additional information on protecting minors online. The DSA requires online platforms accessible to minors to implement appropriate and proportionate measures to ensure high levels of privacy, safety and security when using their services and prohibits platforms from targeting advertising to minors.¹³ GDPR has specific rules regarding the validity of children’s consent.¹⁴ The AVMSD addresses audiovisual content potentially harmful to minors.

⁹ Commission Notice – Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market (2021/C 526/01) < <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021XC1229%2805%29&qid=1640961745514> >

¹⁰ Section 4.2.7, Commission Notice – Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market (2021/C 526/01) < <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021XC1229%2805%29&qid=1640961745514> >

¹¹ Annex 1(28), Unfair Commercial Practices Directive, 2005/29/EC

¹² Commission Notice – Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market (2021/C 526/01) < <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021XC1229%2805%29&qid=1640961745514> >

¹³ Article 28, Digital Services Act, 2022/2065

¹⁴ Article 8, General Data Protection Regulation (GDPR), 2016/679

31. As such, priority should focus on utilising existing legislative frameworks to ensure continued minor protection online rather than developing additional regulation.
32. Self-regulatory codes contain specific rules on marketing to minors, backstopped by consumer, digital and AVMS frameworks. The ICC Advertising and Marketing Code contains a specific chapter on advertising to “Children and Teens”¹⁵ guiding marketers, ad agencies and media on protecting minors from inappropriate advertising. Compliance demonstrates industry commitment to protecting minors unethical, harmful or exploitative advertising.
33. The World Federation of Advertisers (WFA) has been operating their Responsible Advertising and Children Programme (RAC) for 29 years, providing global leadership in championing good practices for marketing communications to children whilst supporting advertising standards for additional consumer protection.
34. Media literacy initiatives such as Germany and UK's Media Smart promote responsible advertising education among young people. Industry efforts in minor protection should be recognised in the Consumer Agenda 2025-2030, encouraging continued enforcement and contributing to online minor safety.
35. Furthermore, while we support the goal of ensuring that minors are protected online, we urge caution against a situation where the DSA prohibition on targeted advertising to minors could be extended to all online services. In our view, this would jeopardise the sustainability of services that do not require the creation of a profile and do not have an age-verification system in place, such as the websites of many press publications. Without certainty about users' ages, a universal ban would effectively prohibit all targeted advertising. This would be disproportionate and unsustainable for several ad-financed online services.

CONCLUSION

36. The EU's consumer protection framework is comprehensive and robust, capable of addressing current and emerging challenges through proper enforcement rather than additional regulation. The advertising industry's established self-regulatory system provides essential complementary protection covering 97% of EU advertisements whilst resolving complaints more efficiently than most regulatory mechanisms.
37. Our key recommendations for the Consumer Agenda 2025-2030 are:
 - Prioritise enforcement across member states over new legislation
 - Formally recognise advertising self-regulation as a key consumer protection mechanism
 - Ensure coordination between the Consumer Agenda and Digital Fairness Act
 - Focus on guidance harmonisation to reduce regulatory fragmentation

¹⁵ Article 20 and Chapter E, ICC Advertising and Marketing Communications Code, 11th Edition, 2024 < https://iccwbo.org/wp-content/uploads/sites/3/2024/09/ICC_2024_MarketingCode_2024.pdf >

- Conduct rigorous impact assessments to protect EU competitiveness, particularly for SMEs and services like the media, that increasingly rely on revenues from digital advertising and subscriptions.

38. These recommendations would enhance consumer protection whilst preserving European competitiveness and regulatory coherence. The advertising industry stands ready to work with the Commission in implementing these priorities whilst continuing to strengthen our self-regulatory frameworks in service of EU consumers.

Advertising Information Group

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