Mr Maly Radek
Head of Unit
DG Grow
GROW E.3.
B-1049 Brussels

05 Sept 2025

Response to French notification on fast fashion regulation

Dear Mr Radek,

On behalf of the Advertising Information Group (AIG; transparency number: 11220347045-31), an informal network of European advertising and media associations, we write to you with regards to the French TRIS notification concerning the proposed law on fast fashion regulation, specifically the provisions in Article 3 and Article 3 bis which would ban advertising of so called ultra-fast fashion products, including promotional activities by influencers.

First and foremost, we acknowledge the importance of promoting sustainable consumption and environmental protection. The advertising industry is committed to responsible practices and has already implemented comprehensive frameworks to ensure truthful and responsible environmental communications through existing self-regulatory codes across Europe.

However, we are concerned that the proposed advertising restrictions in Articles 3 and 3 bis of the French law, will have a significant impact on advertising and media plurality and will create technical barriers to trade within the internal market for the following reasons:

Potential Violation of EU Fundamental Freedoms and International Trade

The proposed law could infringe the free movement of goods by restricting access to the French market through penalties and advertising bans that disproportionately affect foreign producers. Such restrictions create artificial barriers that fragment the single market and discriminate against businesses operating across multiple Member States.

Furthermore, the proposed measures may conflict with France's obligations under World Trade Organisation (WTO) rules, particularly the Agreement on Technical Barriers to Trade (TBT) and the General Agreement on Tariffs and Trade (GATT). The advertising restrictions and penalties could constitute disguised restrictions on international trade that disproportionately impact imports, particularly from developing countries where many textile manufacturers are based. The lack of clear definitions and objective criteria for determining "ultra express" fashion and "excessive production" could enable discriminatory enforcement against foreign producers, potentially violating WTO principles of national treatment and non-discrimination. Any such measures should be based on internationally recognised standards and be proportionate to their stated environmental objectives.

Conflict with the Unfair Commercial Practices Directive (UCPD)

The proposed French fast fashion law could potentially conflict with the Unfair Commercial Practices Directive (UCPD), which establishes full harmonisation in the field of unfair commercial practices at the EU level. According to Article 4 of the UCPD, Member States may neither maintain nor introduce stricter or divergent national provisions in areas covered by the directive. The objective is to ensure uniform rules across the internal market and prevent regulatory fragmentation that could hinder cross-border trade. The UCPD explicitly applies to commercial communications, including advertising and marketing practices that are capable of materially distorting consumer behaviour.

Following the recent amendments introduced by the Directive (EU) 2024/825 on Empowering Consumers for the Green Transition, environmental claims have been incorporated into the scope of the UCPD. Importantly, these new provisions also fall under the full harmonisation principle, meaning that Member States are not allowed to go beyond or deviate from the harmonised standards, even for environmental protection objectives, insofar as they relate to consumer-facing commercial practices. Against this backdrop, the French legislative proposal must be viewed as overstepping the boundaries of the harmonised framework, since it introduces far-reaching restrictions that go well beyond what EU law currently prescribes.

In this context, the French proposal to impose a general advertising ban on certain highly polluting fashion products is particularly problematic. Such a ban constitutes a national rule regulating commercial advertising, which falls squarely within the scope of the harmonised UCPD framework. Since the directive already provides an exhaustive list of conditions under which advertising is considered misleading or unfair, the introduction of additional national prohibitions—regardless of their environmental motivations—would likely exceed the boundaries permitted by EU law.

The adoption of these measures risk creating legal uncertainty for businesses and undermining the internal market. Therefore, we believe that the French law is incompatible with the UCPD and could be challenged by the European Commission through infringement proceedings or by affected businesses before national courts or the Court of Justice of the European Union.

Mandatory Environmental Messages and Information Overload

The requirement for all advertising of “ultra-express” fashion products to carry mandatory messages encouraging responsible consumption, such as buying second hand or renting, raises similar concerns to those we have previously expressed regarding mandatory health warnings. Too much information in advertising may in fact be counterproductive in conveying key environmental messages to consumers, especially in small print formats or time-limited TV or radio broadcast advertising. A balance must be struck between transparency and information overload.

Lack of Clear Definitions and Technical Specifications

A fundamental problem with the proposed law is that the threshold for defining “ultra-express” fashion is to be set by a separate decree, meaning it is not yet known how high it will be. This creates significant legal uncertainty for businesses and makes compliance assessments significantly complex. Additionally, key terms such as “excessive production” in Article 3 remain ill-defined, providing no objective criteria for businesses to determine compliance or for authorities to enforce the law consistently. Without clear metrics or benchmarks, the concept of “excessive production” becomes subjective and potentially discriminatory in its application.

In our view, important information is missing from the draft law, including:

- Clear scope and definitions of what constitutes “ultra-express” fashion and “excessive production”
- Specific content and format requirements for mandatory messages
- Date of entry into force and transition periods
- Technical specifications for compliance

Backdoor Product Regulation

By penalising brands whose clothing is not “durable”, the law effectively sets unofficial standards for durability without clearly defining what “durable” means or how it should be measured. This creates a backdoor regulation of product lifespan that goes beyond advertising regulation and enters the realm of product standards, which will in any case be harmonised at EU level through the Ecodesign for Sustainable Products Regulation (ESPR) delegated act on textile products. The French law is pre-empting the detailed work that will be undertaken under the ESPR and risking fragmentation of the EU internal market.

Failure to Address Root Causes

The law focuses on symptoms rather than tackling the systemic drivers of fast fashion, such as global trade structures, and consumer demand for low prices. Restricting advertising does not address these fundamental issues and may simply shift consumption patterns rather than reduce overall environmental impact.

Impact on Media Plurality and Cross-Border Services

The advertising restrictions will result in:

- Higher costs for advertisers to adapt campaigns specifically for the French market
- Reduced advertising revenue for French and European media outlets
- Potential withdrawal of cross-border media services from the French market
- Decreased media plurality and consumer choice

Print and digital media originating from other Member States intended for sale or distribution in France would be forced to adapt advertising content to comply with French-specific requirements. This would incur higher costs for publishers and may force EU publishers to consider withdrawing publications from the French market.

Furthermore, given the country-of-origin principle enshrined in the Audiovisual Media Services Directive (AVMSD), we would be grateful if the Commission could confirm that broadcasting services that originate from other Member States would not be required to adapt advertising content because of this law.

Recommendations

We therefore urge the European Commission to carefully assess the provisions in the proposed law that pose a challenge to the internal market. We also believe that the French government should withdraw the draft law because it is incomplete and potentially incompatible with EU law. Instead, they should re-notify a comprehensive draft that provides:

- Clear technical specifications and definitions
- Compatibility assessment with existing EU harmonisation measures
- Proper impact assessment on cross-border trade and media services
- Consideration of less restrictive alternatives that could achieve the same environmental objectives

Existing frameworks for sustainable advertising, including industry self-regulation and the enhanced UCPD provisions on environmental claims, already provide a sound basis for addressing misleading environmental communications whilst preserving the functioning of the internal market.

We thank you for your time and consideration and remain at your disposal should you want to discuss our concerns further.

Yours sincerely,

Konrad Shek
Director

Advertising Information Group