



Digital Fairness Act – European Commission Consultation

Competition and Consumer Protection
Commission, Ireland

Submission to public consultation

24 October 2025



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission



Table Of Contents

1.	Executive Summary.....	1
2.	Digital Contracts – Easy in, Easy out	5
3.	Fairness by design.....	7
4.	Dark Patterns	8
5.	Unfair practices related to pricing	10
6.	Addictive design.....	12
7.	Video games and online games	14
8.	Unfair personalised pricing	16
9.	Enhancing enforcement.....	18
10.	Right to withdraw from live events	20
11.	Simplification Measures	23

1. Executive Summary

The Competition and Consumer Protection Commission

- 1.1 The Competition and Consumer Protection Commission (CCPC) is the statutory body responsible for promoting compliance with, and enforcing, competition and consumer protection law in Ireland. We strive to improve consumer welfare across the economy by enforcing over 40 legislative instruments, including product safety legislation. We also have new roles in digital and data regulation.
- 1.2 Our aim is to make markets work better for consumers. To achieve this, we work to influence public debate and policy development, grow public understanding of the importance of open and competitive markets, promote competition and highlight the interests of consumers.
- 1.3 We provide information to consumers about their rights, personal finance and product safety, through a consumer helpline, our website, public awareness campaigns and through our various financial education initiatives.

Our positions in relation to the Digital Fairness Act consultation

- 1.4 The CCPC strongly supports the aim of the proposed Digital Fairness Act to enhance consumer protection, while simplifying consumer protection rules and ensuring a level playing field for businesses. This response outlines the CCPC's initial views on potential new rules the Digital Fairness Act could introduce to promote fair, coherent, and responsible digital markets that work better for consumers and businesses.
- 1.5 Current EU law offers strong protection of people shopping in traditional 'bricks and mortar' shops and certain online settings. However, the CCPC agrees with the findings of the Digital Fairness Fitness Check that increasingly consumers are suffering harm from unfair and misleading design techniques. This is borne out by our experience in consumer protection through our enforcement activities and our participation in EU and international sweeps. Such design techniques include

dark patterns, addictive design of interfaces, discriminatory personalised pricing, misleading influencer marketing and subscription traps.

- 1.6 Consumer protection authorities such as the CCPC can also find it difficult to take action against harmful consumer practices online. For example, it is not always possible to enforce against the use of dark patterns, a new means to mislead consumers, when these are not clearly set out in current consumer protection legislation or there is little case law to help define the legal boundaries. There is also fragmentation in how EU Member States apply consumer law online, leading to different rules in areas like marketing rules for influencers, which can make it difficult for traders to operate across the Single Market. This combination of ambiguity in legislation and fragmentation in implementation affects not only consumers and consumer protection authorities, but it also impacts traders who may be unsure of how their practices will be treated in different Member States.
- 1.7 The CCPC recommend that proposals arising out of the European Commission's consultation process should lead to robust and practical measures to support consumer decision-making online, enable more effective enforcement and provide clarity to traders on their existing obligations.
- 1.8 The CCPC highlights key areas that the Digital Fairness Act could enhance:
 - **Digital contracts** – Too often consumers find it much more difficult to get out of a digital contract. There should be specific legislation requiring businesses to make it as easy to withdraw from a contract or cancel a subscription as it is to sign up. Additional proposals could also make terms and conditions easier to understand although this needs to be balanced with the need to provide key information to consumers.
 - **Fairness by design** – An obligation on traders to incorporate consumer protection considerations at the design stage could support not only better outcomes for consumers but also level the playing field for traders. Engagement with all relevant stakeholders will be important if the European Commission proposed to introduce such a measure.

- **Dark patterns** – There should be a defined list of certain practices that are commonly understood to be dark patterns and which negatively impact consumers. There is a lack of clarity in the legislation on what a dark pattern actually is. The CCPC is particularly concerned about nagging, confirm-shaming, ambiguous language, difficult cancellation processes and unfairly prioritising some options over others.
- **Drip-pricing** that hides mandatory fees or costs should be blacklisted. This prohibition should take into account scenarios where traders may not be able to display all mandatory fees or costs upfront. However, the practice of drip-pricing harms consumers and needs stronger rules than are currently in place.
- **Dynamic pricing** – While dynamic pricing can be helpful to consumers in certain situations and increase competition in the market, there should be absolute transparency on where this is used, particularly in sectors which to date have not traditionally used dynamic pricing. This will help to empower consumers to make the best choice they can.
- **Addictive design** – Consumers can be better protected when it comes to addictive design. The use of opt-in can be used to help consumers ‘turn down’ addictive design features and addictive design could be defined in law, making it easier for consumers, consumer protection authorities and traders to know what it entails.
- **Video games and online games** – Better transparency is required in video games and online games, particularly around virtual currencies and features that incentivise regular engagement. Rules should be future proofed as these are evolving areas and the terminology is not universal.
- **Unfair personalisation practices** – Where a consumer receives a personalised price that is unfair, for example through unfair profiling, this should be prohibited. Personalised pricing should also be transparent.

- **Influencers** – The term Influencer should be defined. The law should set out specific transparency requirements for influencers, which should extend to platforms, brands and agents who represent influencers.
- **Enhancing enforcement** – The current consumer protection legislation is well-established and protects consumers well. However, the Digital Fairness Act, or other reforms in cross border consumer protection enforcement legislation, could be used to strengthen the legislation to ensure more coherent enforcement and provide certainty to traders operating across the Single Market.
- **Right to withdraw** – The CCPC is concerned about potential consumer detriment relating to the selling of tickets for high demand live events. Consideration should be given, in consultation with industry, to providing a right of withdrawal in certain circumstances.

2. Digital Contracts – Easy in, Easy out

Terms and Conditions

- 2.1 The CCPC regularly receives contacts from consumers about online contracts and often they are not aware of the actual conditions they have signed up to. This is due to technical and ambiguous language, or the use of formats that are difficult to read and understand, particularly online.
- 2.2 The CCPC acknowledges that information overload is a known problem in online terms and conditions and have previously examined this issue in research examining consumer behaviour in regulated markets¹. To counter this, further consideration could be given to designing templates for contracts like those used in the telecoms sector or in the financial sector to condense complicated documents into summaries. However, careful consideration is required if any legislation or guidance were to set out what is a 'key' term to mitigate the risk that a consumer only receives what a trader considers to be 'key' and misses out on important information.

Cancellation – notifications and auto-renewal

- 2.3 Strengthening the rules to require clear and simple technical means of cancellation could also assist in reducing the capacity to create obstacles to cancellation, making it possible in practice to cancel a subscription by the same means used to sign up. This could include new binding rules that influence the design or templates used such as including coloured buttons in emails. The CCPC notes the proposed introduction of such rules in Germany². However, full analysis

¹ CCPC Compare and Switch: Understanding Consumer Behaviour in Regulated Markets (2023). Accessed at: <https://www.ccpc.ie/business/research/market-research/compare-and-switchunderstanding-consumer-behaviour-in-regulated-markets/>

² This rule is proposed as an amendment to the German Civil Code, section 313k(2). Accessed at: https://www.gesetze-im-internet.de/englisch_bgb/, section 313k(2) . See also <https://ecommercenews.eu/germany-introduces-mandatory-cancellation-button/>

should be undertaken of the impact on different businesses of employing such methods.

- 2.4 In addition, consideration could be given, informed by behavioural economics and working with industry, to replicate sector specific requirements in regulated markets such as telecoms and financial services to provide advance reminders regarding auto-renewal. The CCPC considers that such reminder requirements could be applied to digital subscription renewals. Designing templates of required information could assist with implementation by traders and regulatory certainty in enforcement. Such auto-renewal warnings could include the inclusion of a termination link, to nudge consumers to shop around.
- 2.5 A 'fairness by design' requirement in the Digital Fairness Act may underpin such initiatives to simplify contractual information and contract reminders.

Subscriptions

- 2.6 The CCPC has, through its compliance and enforcement activities, noted a number of examples where consumers are unfairly exploited through subscription traps, which results in consumers signing up for a free trial, only to later be enrolled in a paid subscription without expecting it. The CCPC has seen financial consumer detriment in this area, where redress and enforcement have been difficult. Based on this experience, the CCPC supports the placement of a positive obligation on traders to ensure express consent before switching from a free trial to a paid service. Consideration would be required on how best to implement this requirement without harming innovation developments, best practice and integrating the 'fairness by design' principle.

3. Fairness by design

- 3.1 The CCPC considers that the Digital Fairness Act could introduce a 'fairness by design' duty on traders to incorporate consumer protection considerations at all stages of the product or service development. There is already precedent for such measures regarding data protection under Article 25 of the General Data Protection Regulation (GDPR), and the compliance by design requirement in Article 31 of the Digital Services Act. The CCPC also notes the anti-circumvention requirements set out in Article 13(6) of the Digital Markets Act.
- 3.2 As set out in the Digital Fairness Fitness Check, there is insufficient legal certainty about the application of general principle-based rules to complex online practices. The CCPC considers a fairness by design duty could support a level playing field for traders by introducing more harmonised consumer protection.
- 3.3 Impact assessments would need to be undertaken to understand the benefits to consumers and traders of imposing such a clause versus potential adverse impacts on competition and the simplification agenda. Should a fairness by design principle be introduced it should be sufficiently specific to provide certainty to traders and to competent authorities.

4. Dark Patterns

Binding rules

- 4.1 The CCPC supports new binding rules to enhance enforcement in this area.
- 4.2 Consumer trust in digital products and services is key to the function of digital markets. The CCPC supports prioritising tackling manipulative interface design and dark patterns, as a key aim of the Digital Fairness Act as set out in Commissioner McGrath's mission letter³. This is particularly important given the prevalence of the use of dark patterns found in the Consumer Protection Cooperation Network (CPC) sweep of websites to identify dark patterns in 2022⁴, the OECD's 2022 report on dark patterns⁵ and the International Consumer Protection Enforcement Network (ICPEN) 2024 sweep of dark patterns in subscription services⁶, as set out in the Digital Fairness Fitness Check.
- 4.3 The Digital Fairness Fitness Check demonstrated that consumers are also aware of the negative impact of dark patterns, through responses to surveys on the negative impact of dark patterns on their online experience⁷. The CCPC suggests that the Digital Fairness Act could include new binding rules and accompanying guidance to support consumer choice, increase consumer trust and fairness in digital markets regarding dark patterns.
- 4.4 The CCPC supports the finding of the Digital Fairness Fitness Check that the legal provisions in consumer law only partly address dark patterns. Only a limited number of dark patterns are directly prohibited in the UCPD blacklist, none of the existing prohibitions refer specifically to digital interfaces and their application hinges on a case-by-case assessment. The lack of legal certainty about the fairness

³ Mission letter to Michael McGrath (2024). Accessed at: https://commission.europa.eu/about/commission-2024-2029/commissioners-designate-2024-2029_en

⁴ CCPC participated in this sweep. Accessed at: <https://www.ccpc.ie/business/ccpc-participates-in-eu-wide-sweep-of-websites-to-identify-dark-patterns/>

⁵ OECD, Dark Commercial Patterns, 2022. Accessed at: https://www.oecd.org/en/publications/dark-commercial-patterns_44f5e846-en.html

⁶ Accessed at: <https://www.icpen.org/news/1360>

⁷ Commission Staff Working Document Fitness Check of EU Consumer Law On Digital Fairness (October 2024). Accessed at: https://commission.europa.eu/document/707d7404-78e5-4aef-acfa-82b4cf639f55_en

of specific types of dark patterns under the UCPD could undermine the effectiveness of its application. In addition, UCPD guidance 2021 is non-binding, and the legal basis remains largely unexplored through enforcement and case law.

- 4.5 The CCPC understands firsthand the difficulty, under current legislation, in attaining the level of legal certainty required to take enforcement measures when partaking in the CPC Network 2022 sweep into dark patterns⁸. In particular, the CCPC considers it is difficult to prove the impact of dark patterns which influence the presentation of information to consumers such as prominence, confirm-shaming, ambiguous language, difficult cancellation processes and presenting choices in a leading manner such as unfairly prioritising options.
- 4.6 The CCPC proposes that introducing new binding rules to set out specific dark patterns in legislation, such as in Annex 1 of the UCPD (the UCPD blacklist), would better protect consumers through easier enforcement and clear compliance requirements. Such an approach has been taken in legislation, such as in Article 16(e) of the Distance Marketing of Financial Services Directive 2023/2673/EU. The CCPC considers that the UCPD blacklist should contain a list of prohibited dark patterns.

Guidance on dark patterns to support enforcement

- 4.7 The CCPC considers that guidance to support enforcement should also be considered to provide clarity on the interaction and functioning of the term ‘dark patterns’ across varied legislation, including the UCPD, the DSA, the GDPR, the AI Act, the DMA, the Data Act and provisions regarding financial services under the CRD and other relevant legislative instruments.

⁸ CCPC participates in EU-wide sweep of websites to identify dark patterns (2022). Accessed at: <https://www.ccpc.ie/business/ccpc-participates-in-eu-wide-sweep-of-websites-to-identify-dark-patterns/>

5. Unfair practices related to pricing

- 5.1 The Digital Fairness Check highlights that dark patterns can impact on price transparency and erode consumer trust in digital sales practices. However, restrictions on consumer policy can have unintended or negative consequences if it restricts price competition and these should be factored where relevant into the considerations set out below.

Drip-pricing

- 5.2 The CCPC supports the proposed prohibition on ‘drip-pricing’, where mandatory costs/fees are not presented upfront but are added during the consumer journey. The CCPC believes that drip-pricing is a common commercial practice; in a CPC 2018 sweep of 560 websites, 39% were identified as having suspected irregularities on information about unavoidable extra fees⁹. The effect of such drip pricing can be to hide key information about the total price of the product or service from the consumer. Consumers often use the upfront price of a product or service to make comparisons and as a key factor informing their decision making. When traders engage in drip-pricing the upfront price is not the final price and this can result in poor consumer decision making, financial detriment and the erosion of consumer trust and confidence. Difficulties with comparing prices where drip-pricing is used can also have negative impacts on competition, leading to unfair outcomes for traders who do not engage in drip-pricing.
- 5.3 The CCPC notes recent initiatives in the UK regarding unfair practices such as drip pricing in the Digital, Markets, Competition and Consumers Act 2024. The CCPC is of the view that consideration should be given to adding drip-pricing to the blacklist at Annex I of the UCPD, prohibiting traders from adding any mandatory fees/costs to an order at any point after informing the consumer of the price, including through advertisement. Consideration will need to be given to products or services where it is not possible for a trader to display all mandatory costs/fees upfront, for example where fabric is sold depending on the length required. In that

⁹Online shopping: Commission and consumer protection authorities call for clear information on prices and discounts, https://ec.europa.eu/commission/presscorner/detail/en/ip_19_1333

case there should be an obligation for traders selling those products to ensure that consumers are provided upfront with information about how the mandatory charges will be calculated.

Dynamic Pricing

- 5.4 The CCPC is of the view that dynamic pricing can, in some circumstances, be compatible with healthy competition and good outcomes for consumers¹⁰, as long as consumers are aware of its use and its impact on pricing.
- 5.5 Where dynamic pricing is used without adequate disclosure or consumers' expectation of normal practice in a sector, consumers' ability to make fully informed purchasing decisions may be compromised, leading to poor consumer outcomes. The CCPC is of the view that traders in those circumstances should be obliged to inform consumers, in a timely manner, that dynamic pricing is being used, to explain how it affects prices and to provide up-to-date information on the price of the product or service. Armed with this information, consumers can be better empowered to assess whether a product or service priced in accordance with a dynamic pricing model is affordable for them and to shop around for better offers.

¹⁰ For example, the CMA found that dynamic pricing can help businesses make better use of their capacity, invest in creating new capacity and improving efficiency. Consumers can also benefit from dynamic pricing models where they can be flexible about the conditions of the purchase, such as choosing a cheaper time of day to fly. Competition and Markets Authority. (2025). "Update Dynamic Pricing". Accessed at: <https://www.gov.uk/government/publications/dynamic-pricing-project-update/update-dynamic-pricing>

6. Addictive design

6.1 The CCPC considers that new binding rules are needed to protect consumers from harmful impacts of unknowingly engaging with addictive design features. The CCPC considers that a balanced approach could be taken to support innovative design by providers in new digital offerings and requirements to safeguard consumers in online environments. The CCPC recommends the below options to protect consumers from harmful addictive design practices while balancing design innovation:

- (a) **Opt-in to offer consumers control** - The use of opt-in features could provide consumers with choice and control to turn addictive features on when required or desired. There may need to be further consideration of particularly harmful addictive designs that require an 'opt-in' function rather than a blanket ban on all design practices.
- (b) **Defining addictive design** - To assist with enforcement and harmonised compliance the CCPC considers that addictive design may need to be defined in legislation. The CCPC understands that the difference between dark patterns and addictive design has not been legally clarified. The Digital Fairness Fitness Check highlighted that there is no specific regulation of addictive design. This introduces legal uncertainty regarding which type of legislation addictive design should be assessed through. A definition that applies under consumer protection law as well as online safety law will help to introduce such legal certainty.
- (c) **Vulnerable consumers** - The CCPC notes the European Commission's designation of minors as a particularly vulnerable group to addictive design in its recent guidelines on protecting minors under the

DSA¹¹. The gamification of e-commerce platforms that sell certain goods aimed at young adults and teenagers is a concern at EU level. Such gaming features include scratch cards and spin the wheels that may impede the decision-making of minors. Consideration should be given on the impact of these practices on consumers, particularly vulnerable consumers.

¹¹ Commission publishes guidelines on the protection of minors | Shaping Europe's digital future (2025). Accessed at: <https://digital-strategy.ec.europa.eu/en/library/commission-publishes-guidelines-protection-minors>

7. Video games and online games

- 7.1 The Digital Fairness Fitness Check highlights self-reported consumer harm regarding price transparency in video games. Consideration could be given to embedding the CPC's Key Principles on In-Game Virtual Currencies in the Digital Fairness Act¹² to enhance price transparency requirements in the specific case of video games, providing legal certainty.
- 7.2 In addition, based on the CCPC's participation in sweeps on video games¹³, the CCPC considers that measures may need to be taken to enhance the communication to consumers of the odds regarding randomised elements of games, to allow informed purchasing decisions. The CCPC is aware that the European Commission's Guidelines on the Protection of Minors under the DSA lays down rules for online platforms, excluding small and micro enterprises unless designated as very large online platforms (VLOPs), which may also regulate such digital product features¹⁴.
- 7.3 The CCPC has a particular concern regarding the use of these features in online games. As evidenced by recent research, minors are particularly vulnerable to experiencing financial and emotional harm as a result of addictive and gambling-

¹² https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/social-media-online-games-and-search-engines_en

¹³ CCPC and global consumer agencies find manipulative design practices in games. (2025). Accessed at: <https://www.ccpic.ie/business/ccpc-and-global-consumer-agencies-find-manipulative-design-practices-in-games/#:~:text=CCPC%20and%20global%20consumer%20agencies%20find%20manipulative%20design%20practices%20in%20games,-July%20%2C%202025&text=More%20than%2020%20national%20consumer,to%20identify%20potential%20consumer%20harms.>

¹⁴ European Commission. (2025). 'Communication from the Commission. Guidelines on measures to ensure a high level of privacy, safety and security for minors online, pursuant to Article 28(4) of Regulation (EU) 2022/2065. Accessed at: [Commission publishes guidelines on the protection of minors | Shaping Europe's digital future](#)

like features in digital games¹⁵ and adolescents who purchase loot boxes in particular are more likely to have gambling problems¹⁶.

- 7.4 The CCPC supports adults having enhanced control over these features in digital products. Higher levels of protection may be required for vulnerable consumers such as minors. In this instance the credulity of vulnerable groups, including minors, can mean they do not fully understand that these types of games involve gambling and may have real world consequences. The issue is exacerbated by the use of virtual currencies, which mask the real-world cost of in-game purchases, making it even more difficult for consumers, especially vulnerable consumers, to understand the impact of their spending. Introducing a requirement for the cost of in-game purchases to be stated in real-world currency may help to mitigate this risk.
- 7.5 The CCPC is aware that digital games are an area in which there is a range of terminology used for gaming features. The European Commission should consider framing any new binding rules in a sufficiently broad and future proofed manner to ensure any new rules relating to video game features which contain gambling-like and addictive design elements can be practically enforced, regardless of the terminology used within those games or new technologies which may arise.

¹⁵ Key findings from research carried out in the UK that looked at 42 families' experience of in-game purchases, specifically loot boxes are (i) that in-game purchases such as loot boxes cause financial and emotional harm to children and young people, (ii) children find it difficult to track their spending in games and fail to understand the value of money, leading to poor spending decisions, (iii) games use gambling techniques to make players game for longer and spend more money and (iv) digital items are highly desirable and collectible, driving repeat buying. James, Ash, Rachel Gordon, and Sarah Mills. 2022. "Between Gaming and Gambling: Children, Young People, and Paid Reward Systems in Digital Games". Loughborough University. Accessed at:

https://repository.lboro.ac.uk/articles/report/Between_gaming_and_gambling_Children_young_people_and_paid_reward_systems_in_digital_games/21640190/1?file=38367188

¹⁶ Rockloff, M., Russell, A. M., Greer, N., Lole, L., Hing, N., & Browne, M. (2021). Young people who purchase loot boxes are more likely to have gambling problems: An online survey of adolescents and young adults living in NSW Australia. *Journal of Behavioral Addictions*, 10(1), 35-41.

8. Unfair personalised pricing

8.1 Personalised pricing can, depending on the circumstances, be beneficial to consumers, as it can enable certain consumers to access goods and services which may otherwise be unaffordable to them. However, personalised pricing can also lead to poor outcomes for consumers such as where unfair profiling practices result in certain consumers paying higher personalised prices. As noted in the Digital Fairness Fitness Check, further assessment of unfair personalised pricing is needed, under both consumer protection and data protection frameworks and the CCPC suggests that this assessment is conducted in consultation with industry, to ensure proposals adequately capture how personalised pricing is conducted across different sectors and the impact it has on consumers.

Harmful practices by influencers

8.2 The CCPC considers it is important that when a consumer sees commercial content on social media, they can instantly recognise it for what it is. CCPC research shows that almost a quarter of consumers who purchased a product because of an influencer promoting it subsequently felt misled¹⁷. To support enforcement and increase legal certainty regarding social media commerce, the CCPC considers that there are specific ways to improve the law in this area.

Enshrine definitions in law

8.3 While educating consumers and influencers of their respective rights and responsibilities are important, the CCPC considers that clearer definitions and requirements on influencers and brands they promote would reduce legal uncertainty regarding enforcement and increase consumer trust in social media commerce. While EU consumer law establishes a general legal basis for tackling transparency concerns regarding influencer marketing, it is currently insufficiently precise in addressing all concerns raised by social media commerce, which contributes to a risk of regulatory fragmentation and legal uncertainty. If a

¹⁷ CCPC Influencer Marketing Report, 2022. Accessed at: <https://www.ccpc.ie/business/research/market-research/ccpc-online-behaviour-influencer-marketing-research/>

separate definition of 'influencer' is to be provided in European law, it should be future-proofed. These obligations could extend to platforms, brands and agents who represent influencers to increase co-responsibility and facilitate compliance and enforcement. Creating new binding rules regarding definitions could assist in alleviating the risk of regulatory fragmentation and legal uncertainty created through different social media influencer rules applying throughout Europe as noted in the Digital Fairness Fitness Check.

9. Enhancing enforcement

- 9.1 The CCPC notes industry calls for the EU to focus on strengthening the enforcement of existing consumer protection laws. In line with this, the CCPC supports the prioritisation of the Review of the CPC Regulation by Commissioner McGrath during his term. The CCPC awaits the outcome of the European Commission CPC Regulation Review and supports the consideration of issues regarding the application of the CPC Regulation to third-country traders targeting EU consumers from outside the EU; measures to target high-impact issues that impact entire business sectors; more coherent enforcement and increasing the availability of e-enforcement tools.
- 9.2 However, the CCPC considers that new binding rules introduced by the Digital Fairness Act could also address legal uncertainty issues which can impede compliance by business with rules and enforcement of existing consumer protection rules. For example, there are issues regarding legal certainty in enforcement of dark patterns which could be resolved by binding rules.
- 9.3 Any new binding rules introduced by the Digital Fairness Act must be future proofed such as through built in review functions in the legislation requiring frequent European Commission reviews of market practices to monitor the use of dark patterns or addictive design. This will ensure legislation and enforcement remains relevant and proportionate, to protect consumers without impeding innovation.
- 9.4 Care should be paid to the ‘no duplication’ principle to avoid businesses being subject to multiple investigations for the same conduct under different legislation. In the event of potential cross-over/duplication of new and existing legislation, it should be clearly stated (in both pieces of legislation) which one has precedence, for instance in instances similar to the cross-over between Article 25 of the DSA

and provisions in the UCPD and GDPR. This will improve clarity for traders and competent authorities alike and avoid potential *non bis in idem*¹⁸.

¹⁸ Digital Europe, Digital Fairness Act: do we need new laws or simply better enforcement? Accessed at: <https://www.digitaleurope.org/resources/digital-fairness-act-do-we-need-new-laws-or-simply-better-enforcement/>

10. Right to withdraw from live events

10.1 The CCPC is concerned about potential consumer detriment relating to the selling of tickets for high demand live events. In particular, consumers have very limited time to make decisions that, on reflection, they may not otherwise have made. It proposes that consideration should be given, in consultation with industry, to providing for a right of withdrawal for consumers who purchase tickets to high demand live events in the certain circumstances, such as:

- The tickets are sold pursuant to a distance contract.
- There is high demand for tickets.
- The prices of those tickets have been set using a tiered pricing model or an algorithmic pricing model, including a model that uses price discrimination for tickets with the same objective benefits/characteristics.
- The pricing model has been employed due to the anticipated excess demand for the event.
- The consumer had limited time to make a decision on the trader's online interface.

10.2 The CCPC is of the view that consumers may suffer financial detriment when purchasing tickets to high demand events. This is due to the sense of urgency created by the nature of the event, intensified by surrounding media and online hype, the time-pressured situation which may be created by the trader's online choice architecture and consumer bias towards following through with a purchase they have invested time pursuing¹⁹.

¹⁹ Known as the sunk cost fallacy. The Decision Lab. Accessed at: [The Sunk Cost Fallacy - The Decision Lab](#). This behavioural trait also identified in research carried out by Which? in the UK. Which? (2025). By Fair Means or Foul? Consumer attitudes to dynamic pricing. Accessed from: <https://www.which.co.uk/policy-and-insight/article/by-fair-means-or-foul-aMgOA8Q0aQIZ>

- 10.3 A ‘tiered-pricing model’ is one in which tickets with the same objective characteristics are split into different price tiers in advance of sale. Algorithmic pricing models are ones that use programmes to automate the setting of prices and include dynamic pricing models, which operate by ‘changing the price for a product in a highly flexible and quick manner in response to market demands’²⁰.
- 10.4 In these situations, consumers cannot be certain in advance of entering the virtual queue what they will pay for tickets priced in accordance with these models, which may lead to poor decision making. In the case of tiered-pricing models, the price depends on whether tickets in the lower tier(s) have sold out. In the case of algorithmic pricing models, the price depends on the algorithm. In both cases the consumer’s place in the queue for tickets impacts the price they are offered, something which is often outside of the consumer’s control.
- 10.5 Article 16(l) of the CRD currently provides for an exception from the 14-day right of withdrawal for ‘contracts for a service related to leisure activities, where the contract provides for a specific date or period of performance’. Recital 49 of the CRD explains that the rationale for this exception is that the conclusion of the contract implies the setting aside of capacity, which, if a right of withdrawal were exercised, the trader may find difficult to fill. This rationale does not apply to this scenario, as the trader will be able to re-sell any returned high demand tickets. The European Commission should therefore consider amending the CRD to allow consumers who purchase tickets to high demand live events to exercise a right of withdrawal under specific criteria, such as those set out above.
- 10.6 Consideration should be given, in consultation with industry, as to whether a shorter period than the existing period of 14 days as set out in the CRD would be appropriate in these situations.
- 10.7 It may be argued that consumers have the option to re-sell tickets and for that reason their financial detriment and sunk costs could be mitigated. However, in the case of re-sale, the financial risk unfairly rests with the consumer. The re-sale

²⁰ European Commission. (2021). “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”. Accessed at: [EUR-Lex - 52021XC1229\(05\) - EN - EUR-Lex](#)

of the tickets may be subject to restrictions (e.g. re-sale is only permitted on a specific platform) and re-sale may be subject to charges (e.g. service charges) which results in a financial loss for the consumer. If such a right of withdrawal is provided for in legislation, consumers should be entitled to reimbursement of all payments, as is currently provided for under Article 13 of the CRD and the trader should have an obligation to clearly inform the consumer of the right in advance.

11. Simplification Measures

- 11.1 The CCPC notes the Digital Fairness Fitness Check found that there is little scope to reduce regulatory burdens. The CCPC considers that any measures to simplify the rules must also protect consumers such as in the case of multiple in-app purchases. The CCPC has highlighted throughout this response considerations around providing clarity on definitions such as dark patterns and addictive design.



Coimisiún um
Iomaíocht agus
Cosaint Tomhaltóirí

Competition and
Consumer Protection
Commission

