IAB POLAND'S POSITION ON THE DIGITAL FAIRNESS ACT

1. **Introduction**

IAB Poland and its member companies acknowledge the efforts of the EC to ensure a higher level of consumer trust in the digital environment. At the same time, we emphasize that the EU already has one of the most comprehensive and stringent consumer and data protection systems in the world. The priority should therefore be the effective implementation and enforcement of existing legislation, rather than the creation of new legal frameworks.

Existing acts – including the DSA, DMA, GDPR, AI Act, ePrivacy, UCPD, CRD, CPC, AVMSD, and the amendments introduced under the Omnibus Directive – provide broad and coherent consumer protection in the digital environment. However, their effectiveness depends on uniform application across the EU, consistent guidance from supervisory authorities, and proportionate enforcement.

The aim of the DFA should be to address real enforcement gaps, improve coordination among authorities, and simplify existing procedures – rather than introducing new obligations that could duplicate existing rules and increase compliance costs, especially for small and medium-sized enterprises.

2. **Defining the purpose of the DFA**

New regulations should be **evidence-based** and introduced only in areas where genuine and proven legal gaps exist.

A **risk-based and proportionate approach** should form the central pillar of the EU's new digital policy. Instead of general prohibitions, obligations should be differentiated depending on the type of activity, risk, and impact on the consumer (the DSA serves as a good example of such an approach).

Avoiding duplication and overregulation – DFA should not impose obligations already covered by other legal acts. Otherwise, the same practices could be assessed by multiple authorities using different procedures and interpretive standards. This leads to fragmented responsibility, lack of coordination, and ultimately weaker consumer protection.
A good example is the issue of "dark patterns" on online platforms, which is already regulated under the DSA and UCPD, and indirectly under the GDPR and AI Act. The absence of a coordination mechanism results in fragmented enforcement, overlapping

proceedings, conflicting interpretations, and reduced overall effectiveness.

Recognizing the role of **self-regulation and digital education** – Industry-led self-regulatory initiatives, ethical codes, and educational programs are effective and flexible tools to build trust online.

3. **Analysis of key topics of the DFA**

3.1. **Dark patterns**

The phenomenon of dark patterns is already extensively regulated under EU law (DSA, UCPD, AI Act, GDPR, EDPB guidelines). IAB Poland believes that new DFA obligations should be avoided in this area. Efforts should instead focus on consistent enforcement of existing provisions across Member States.
Support should be given to self-regulatory interface design standards that balance user protection with service innovation.

3.2. **Addictive Design**

The issue of “addictive design” is already indirectly covered by the DSA, AI Act, and UCPD. The industry consensus indicates that what is lacking is not regulation, but a clear definition of this concept.
Not all user engagement mechanisms are harmful; many are part of positive user experiences. IAB Poland recommends maintaining a risk- and context-based approach, differentiating between abusive practices and neutral or beneficial functionalities.
Flexibility should be preserved for various business models (e.g., gamification, product recommendations).
Best practices for digital well-being should be promoted instead of imposing top-down prohibitions.

3.3. **Personalised targeting**

Personalisation is an integral part of the digital economy – from content recommendations to tailored advertising. All activities in this area are already tightly regulated under the GDPR, DSA, DMA, and the ePrivacy Directive.
IAB Poland believes that new restrictions on personalisation should be avoided, as they could effectively ban contextual or behavioural advertising.
Users’ consent-based personalisation must remain possible, as it enables free access to digital services and supports media pluralism.

3.4. **Harmful practices by influencers**

Hidden advertising and misleading influencer content are already covered by the UCPD, AVMSD, and DSA. In Poland, these regulations work effectively, partly due to the development of detailed guidelines by the consumer protection authority. The active participation of the industry in this process helped achieve a practical consensus among stakeholders.
This approach is far more effective than imposing new prohibitions, which could conflict with existing consumer protection frameworks.
Efforts should focus on strengthening coordination and education regarding existing obligations rather than adopting new rules.

3.5. **Pricing and digital contracts**

Current legislation fully regulates price transparency and consumer contracts concluded online. Excessive additional rules could undermine flexibility in subscription models and create unnecessary burdens.
Instead of new legislation, the EC should encourage national authorities to issue consistent interpretative guidelines on applying existing laws, especially in areas that cause the most uncertainty for businesses.
For digital and e-commerce industries, it is crucial to have a uniform interpretation of obligations under acts such as the CRD or UCPD.
Currently, businesses operating across multiple Member States often face divergent positions from national authorities on identical issues, leading to legal uncertainty, higher compliance costs, and repeated procedural adjustments – all of which reduce the competitiveness of European service providers.

Key topics where common EU-level guidance is needed include:
- use of modification clauses in digital contracts,
- rules and limits for subscription price increases,
- informing consumers about changes to service terms.

Such common guidance – e.g. through the Consumer Protection Cooperation Network (CPC) or Commission communications – would prevent fragmentation and improve legal predictability.
This approach would be more effective than introducing new laws, providing legal certainty, improving business compliance, and genuinely enhancing consumer protection.

3.6. **Simplification and horizontal issues**

The excessive number of regulations has led to legal fragmentation and inconsistent application across the EU.
Therefore, the DFA should aim at codification and simplification, not the introduction of additional obligations.

It should be integrated with the Digital Simplification Omnibus process, focus on removing duplicate requirements (e.g., information duties), and improve coordination between consumer protection and data protection authorities.

4. **Conclusions**

The goal of achieving digital fairness and consumer protection is shared by the entire digital services industry. However, success depends not on new rules, but on effective implementation and harmonisation of existing legislation.

IAB Poland proposes that the EC should:
- focus on implementing and enforcing current acts such as the DSA, GDPR, and UCPD;
- provide consistent guidance on interpreting key DFA-related concepts;
- recognise the value of self-regulation and voluntary industry codes;
- strengthen consumer digital education;
- apply a regulatory approach based on:
  a) evidence of necessity for new measures,
  b) proportionality and risk assessment,
  c) the need for simplification.