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## The Digital Fairness Act: the next big thing for online consumer protection in the EU?

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**The European Commission recently published its findings following the Digital Fairness Check, which aims to evaluate the adequacy of current EU consumer protection rules. The report identifies key online practices, including dark patterns, addictive design, and complex subscription cancellations, that will likely inform the preparation of the next piece of European regulation, called the Digital Fairness Act. Overall, the proposed Digital Fairness Act will aim to strengthen consumer rights while adding to an already complex regulatory landscape.**

On October 4, 2024, the European Commission published its findings following the [Digital Fairness Check](#), which aims to evaluate whether current EU consumer protection rules are adequate to address challenges posed by recent technological developments and increased tracking of online behavior.

This substantial report highlights online practices likely to be central to the upcoming European Commission regulation proposal aimed at revitalizing European online consumer protection rules: the Digital Fairness Act.

The report mentions, among other issues, (i) dark patterns, e.g., interface designs that can unfairly influence consumer decisions; (ii) addictive design, e.g., functionalities that abusively encourage consumers to continue using a service, such as gambling-like features in video games; (iii) personalized targeting features that take advantage of consumers' vulnerabilities; (iv) features that make it excessively difficult for consumers to cancel digital subscriptions; and (v) problematic commercial practices of social media influencers.

The report also addresses the fragmentation of national laws in EU Member States regarding these issues, which are primarily governed by Directives (e.g., the Unfair Commercial Practices Directive and the Consumer Rights Directive). The Digital Fairness Act proposal will therefore likely aim to harmonize the applicable rules to create a level playing field within the EU internal market.

Certain EU Member States have indeed already attempted to tackle some of these concerns through national legislation, but with limited success. For example, France recently adopted a law on online influencers, which included specific obligations for online platforms. However, upon the enactment of this law, France received a critical letter from former European Commissioner Thierry Breton, explaining that

the law conflicted with EU legislation, particularly the DSA, the e-Commerce Directive, and the Single Market Transparency Directive.

Overall, the European Commission's report shows that the Digital Fairness Act could be an ambitious piece of legislation, adding another layer of regulation in an already heavily regulated sector that has seen numerous legislative initiatives in recent years (including the P2B Regulation, DSA, DMA, Data Act, General Product Safety Regulation, among others). These recent examples have shown that starting early and monitoring the development of the new regulation is key in compliance efforts as navigating this landscape becomes ever more complicated with regulations continuing to pile up.

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