AI Chamber Position on the Digital Fairness Act

A Contradiction in Strategic Priorities

We had hoped that the recent high-level reports from Enrico Letta and Mario Draghi served as a much needed 'wake-up call' for the Union leadership, and the EC in particular. Both analyses concluded that Europe is facing a critical competitiveness deficit, hampered by fragmented markets and a cumulative regulatory burden that stifles innovation and prevents companies from scaling. Mr. Draghi's report, in particular, identified overregulation as a primary factor holding back Europe's economic potential.

In response, President von der Leyen rightly promised to make deregulation and simplification a cornerstone of her second term. This was a welcome signal to the business community. However, this commitment has not materialized. The "Omnibus" simplification proposals are so far a huge disappointment - they were minimal in scope and have failed to deliver meaningful burden reduction.

The introduction of a new, sweeping legislative initiative like the Digital Fairness Act so soon after that promise implies that the commitment to deregulation was superficial. At a moment when every legislative action should be scrutinized for its impact on competitiveness, the DFA represents a return by the EC to a 'business-as-usual' approach of layering new rules upon an already dense regulatory landscape.

Legislative Redundancy and Legal Uncertainty

Our primary objection to the DFA is that it is substantively unnecessary. The EU acquis already provides the world's most robust framework for consumer protection. The justification for a new, horizontal legislative instrument is fundamentally lacking and (given the emotionally charged title) seems motivated mainly by PR considerations.

The issues the DFA seeks to address—such as 'dark patterns', influencer marketing, and manipulative designs—are not in a legal vacuum. They are already covered by a comprehensive, interlocking set of existing laws:

1. **The Digital Services Act (DSA):** The DSA, which has only just entered its full application phase, contains specific and robust provisions (notably Article 25) that explicitly ban 'dark patterns' and deceptive or manipulative interfaces on online platforms.
2. **The Unfair Commercial Practices Directive (UCPD):** The UCPD provides a broad, principles-based 'safety net' against all misleading and aggressive commercial practices. This framework is technology-neutral and has been consistently interpreted by national courts and authorities to cover manipulative online practices.
3. **The General Data Protection Regulation (GDPR):** Practices related to unfair personalization or the exploitation of consumer vulnerabilities are already strictly governed by the GDPR's rules on consent, profiling, and lawful processing.

Introducing the DFA would not 'complete' the rulebook; it would fragment it. It would create legal incoherence by establishing another, overlapping set of rules governing the same conduct, leading to confusion for businesses and enforcement authorities alike. This legal uncertainty is a direct tax on innovation, forcing companies—particularly SMEs and startups—to divert resources from R&D to duplicative compliance exercises.

The Real Task: Enforcement and Single Market Integration

The problem in Europe's digital consumer market is not a lack of rules, but a lack of consistent, cross-border enforcement of the rules that exist. The Commission's focus should be on empowering and funding the Consumer Protection Cooperation (CPC) network and national authorities to effectively police the market based on the strong UCPD and DSA frameworks.

Furthermore, this legislative initiative distracts from the real work that must be done. The Draghi and Letta reports were clear: Europe's critical failure is the persistent fragmentation of its Single Market. We are not a true single market for services, capital, or digital innovation.

The Commission's resources would be infinitely better spent on proposals that finally deliver:

- A **true Single Market for Services** by removing the persistent national barriers that prevent companies from operating across the EU.
- A **Capital Markets Union** that can finance the scaling of European tech champions to compete globally.

The Digital Fairness Act does little to advance these critical, wealth-generating objectives. It is mostly a solution in search of a problem and is based on catchy media headlines, not on hard data.

Conclusion and Recommendation

The AI Chamber supports high standards of consumer protection - we are all consumers after all. But we believe that that standard has already been set on a sufficient level and the time now is to enforce and gather hard evidence that may in the future underpin legislative intervention. But this time is not now.

The proposed Digital Fairness Act is a disproportionate response to perceived harms that ignores the comprehensive legal framework already in place and fails to acknowledge it needs time to provide tangible results. It adds to the cumulative regulatory burden identified by the Draghi report, creates legal uncertainty through duplication, and contradicts the Commission's own stated priority of enhancing European competitiveness.

We strongly urge the Commission to **withdraw this proposal**.

Should specific, minor gaps in the existing framework be identified following a proper enforcement review, the correct and proportional legislative approach would be targeted, technical amendments to the UCPD, CRD, DCD or other acts or their guidance. Launching a new, standalone Act is an inefficient use of institutional capital and appears to prioritize political visibility over the substantive, evidence-based policymaking that Europe's economy urgently needs.