



A Digital Fairness Act that works for startups

Digital Fairness Act : Call for evidence

20 October, 2025

Introduction

At a time when the European Commission is prioritising simplification, there is growing recognition of the need to reduce the regulatory burden on companies. This was strongly echoed in Mario Draghi's report on European competitiveness,¹ which calls for a more streamlined and innovation-friendly regulatory environment. Commissioner Zaharieva reinforced this message at the Politico AI and Tech Summit in Brussels (14 May 2025), stating clearly that the Commission's mandate is to "be innovation-friendly, be business-friendly".

Consumer protection remains a key priority that Allied For Startups fully supports. However, existing EU legislation already ensures a high level of protection and remains fit for purpose. This includes robust frameworks such as the General Data Protection Regulation (GDPR), the Consumer Rights Directive, the Unfair Commercial Practices Directive (UCPD), the Consumer Protection Cooperation Regulation, and the Unfair Contract Terms Directive, alongside a substantial body of case law and enforcement decisions.

In this context, the Digital Fairness Act (DFA) risks duplicating existing legislation and creating unnecessary complexity. Instead, the focus should be on simplifying and harmonising consumer law to enable startups to operate under a clear, unified framework. We believe that the existing regulatory landscape already addresses most of the concerns the DFA seeks to tackle, and additional legislation risks creating unnecessary complexity, especially considering that the Commission is simultaneously preparing a simplification package for digital rules.

While we believe new legislation is not necessary, we recognise the Commission's concern about the use of dark patterns. We agree that this is a legitimate issue that

¹https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en

warrants further analysis to ensure that any measures effectively promote transparency and maintain trust in digital services.

Smart ads, shared gains: the mutual value of targeted advertising

Digital advertising, and particularly targeted advertising, is a vital tool that enables startups to reach their first customers, enter new markets, acquire customers cost-effectively, and compete with established players. It plays a crucial role in leveling the playing field, enabling startups to efficiently reach their target audiences and grow their businesses.

The first-ever EU Startup and Scaleup Strategy² underscores how crucial fast uptake, expansion, market access, and overcoming growth barriers are for smaller businesses — a goal that effective advertising directly supports. Allied For Startups has already highlighted this point in its report *Mastering the Startup Journey* (March 2025),³ noting that “By imposing stricter controls on targeted advertising, startups won’t be able to test market demand and validate product ideas. Restricting its use could further hinder the ability of startups to scale.”

We therefore remain opposed to restrictions on targeted advertising and any changes to the legitimate interest basis under the GDPR, as these would undermine the ability of startups to grow and innovate. It is essential to reaffirm that all six GDPR legal bases for processing have equal status, and that “legitimate interests” remains a valid ground for data processing related to advertising. The choice of the appropriate legal basis must always be context-specific, and preserving this flexibility is crucial for startups to reach customers, compete effectively, and scale their businesses.

How startups benefit from digital advertising

➤ Targeted advertising delivers higher returns:

- Digital advertising enables startups to expand their customer base rapidly and cost-effectively by precisely targeting the right audience based on interests, demographics, and behaviours — achieving significantly higher conversion rates than traditional, generic advertising.
 - ➔ A report by Danish Entrepreneurs, titled “*The Effects of Restricting Targeted Advertising for Startups*”,⁴ shows that startups being able to target their customers drive 162% more new and returning customers than

²https://research-and-innovation.ec.europa.eu/document/download/2f76a0df-b09b-47c2-949c-800c30e4c530_en?filename=ec_rtd_eu-startup-scaleup-strategy-communication.pdf

³ <https://alliedforstartups.org/wp-content/uploads/AFS-Startup-Journey.pdf>

⁴<https://dkiv.dk/wp-content/uploads/2025/03/The-Effects-of-Restricting-Targeted-Advertising-for-Startups.pdf>

contextual ads, while restricting these tools lead to a 104% increase in their costs.

- The click-through rate (ratio of users who click on an ad to the number who visit a webpage) for personalised advertising is 5.3 times higher than for non-personalised advertising. For retargeted consumers (those who have previously shown an interest in a product) the click-through rate is 10.8 times higher.
- According to the report *The Impact of Digital Advertising on Europe's Competitiveness* (CIPL & Public First),⁵ 86% of EU SMBs grew revenue through personalised digital ads, 80% reached more customers, 76% say they help level the playing field, 73% say they would struggle to find customers without them.
- In a market where European startups are already struggling against global competitors, further restrictions could be the final blow to many promising ventures and would widen the competitive gap globally.

➤ **Monetising data enables free or affordable products:**

- Monetising data through advertising enables startups to generate revenue from their own user base, allowing them to offer products and services at little or no cost. This lowers barriers to entry, attracts users quickly, and drives the rapid user acquisition that is essential for scaling – a dynamic that benefits both consumers and the wider EU economy.
- Imposing further restrictions would undermine this sustainable growth model, as advertising revenue allows startups to offer products and services for free or at significantly lower cost. Without this model, startups would be forced to charge consumers directly or secure much higher levels of funding – both of which are challenging and reduce their chances of success.
 - Charging for products from the outset would mean slower user adoption and limited market penetration.
 - Relying solely on venture capital funding requires startups to demonstrate rapid growth and significant potential returns, which is challenging in competitive markets.
 - The ability to generate revenue through data monetisation provides a more sustainable and less risky funding model.

➤ **Enabling startup growth through fair and effective digital advertising:**

⁵https://www.informationpolicycentre.com/uploads/5/7/1/0/57104281/cipl_public_first_the_impact_of_digital_advertising_eu_competitiveness_study_mar25_.pdf

- Data-driven advertising enables startups to allocate resources efficiently, reinvest in growth, and test new markets with reduced risk.
- As their user base expands, startups gather more insights, improving targeting and fueling a cycle of increased revenue and product development.
- Scalable digital ad models help attract investors and build brand recognition, supporting global growth while keeping operations lean.
- Fair and balanced regulation is essential to ensure startups can access digital advertising tools without being disadvantaged by rules that favor larger players.
- Policymakers should engage with startups to maintain an open, competitive ecosystem where innovation and consumer benefits can thrive.

How consumers benefit from digital advertising

Digital advertising plays a key role in shaping the online experience for consumers, supporting a range of services and enhancing choice. While concerns around privacy and data use are important, it's equally vital to recognise the broader benefits that responsible, targeted advertising can offer:

- Supports access to free services: Many widely used digital platforms rely on advertising revenue to remain free for users. Without this model, consumers could face fewer no-cost options online.
- Enhances relevance: When done responsibly, targeted advertising can improve user experience by presenting content and offers that align more closely with individual interests.
- Promotes diversity of products and services: Digital ads help startups and smaller companies reach potential customers, contributing to greater market diversity and offering consumers more options beyond large, established players.
- Fosters innovation and competitiveness: Advertising tools enable newer businesses to compete, test ideas, and grow. Restricting access to these tools could slow innovation and reduce the range of digital services available.
- Consumers already have access to tools like ad blockers, privacy settings, and browser extensions, allowing them to manage their online advertising experience according to their preferences.

Ensuring a balanced approach to digital advertising regulation can help preserve these benefits while continuing to improve privacy protections for users.

Ensuring fairness and flexibility in digital contracts

The online digital economy thrives on a rich variety of business models (including paid, free, freemium, and subscription-based approaches), providing developers with the

flexibility to bring innovative ideas to market. This diversity is a cornerstone of the digital economy's success, allowing businesses to tailor offerings to their products and customer needs. It is essential that the DFA maintains a level playing field by avoiding favoritism toward any particular business model. AFS strongly opposes any measures that would restrict the use of free trials, which are a vital tool for market access, particularly for startups and smaller developers.

Why free trials matter for startups

For startups, free trials are essential for rapid user acquisition without large advertising budgets and serve as a crucial conversion tool:

- Free trials are commonly used by developers, especially smaller ones, to allow users to test products and grow their user base without large advertising budgets. They usually convert into paid subscriptions after a set period, following a transparent purchase process that clearly informs users they are entering into a paid agreement.
- Imposing additional regulatory requirements, such as a second confirmation flow, would complicate the user experience and reduce the effectiveness of free trials as a conversion tool. Such restrictions would disproportionately affect smaller developers, effectively forcing them to commit to a fully paid or ad-supported model from the outset, limiting flexibility and innovation.
- The DFA should remain neutral with regard to business models, allowing developers to choose the approach that best fits their product and market strategy.
- Startups and developers understand optimal communication frequency to avoid user fatigue. Over-regulating communication requirements, such as mandating monthly reminders, risks overwhelming users with notifications, ultimately making it harder for them to keep track of their subscriptions clearly.

The benefits of free trials for consumers

Free trials are a simple but powerful way to give European consumers more choice, confidence, and value for money — especially in today's digital economy. Startups and small businesses use them to earn trust and help consumers discover new, innovative products without financial risk. Policymakers should safeguard this practice while ensuring clear rules against misuse. Some of the benefits they bring for consumers and Europe's economy:

- Empower informed decisions: Consumers by testing products risk-free to ensure they meet needs before committing financially.
- Increase affordability and access: Trials lower upfront costs, giving everyone a chance to try premium services or cutting-edge tech.
- Build trust and transparency: Honest companies show confidence in their quality by offering trials with clear terms and easy cancellation, strengthening consumer trust.
- Boost competition: They foster a more dynamic market by enabling consumers to discover and try new, innovative products from diverse businesses, increasing choice and competition
- Work well with strong consumer protection: Europe's laws already tackle unfair practices like hidden fees or tricky cancellations. We need better enforcement, not bans, to keep trials fair and safe.

However, it is important to underline that:

- A free trial is the first, cost-free phase of a service contract: Consumers knowingly sign up with clear terms, i.e., they get full access upfront, and if they're satisfied, the service continues seamlessly as paid.
- This model lets consumers fully experience the real product: It is not a limited demo, allowing them to decide with confidence if it's worth paying for.
- It ensures convenience: if they want to continue, there's no need to re-enter details or risk losing settings; if not, they can cancel easily before any charge applies.

We believe it is important to preserve free trials as a valuable consumer and startup tool. Focus regulation on enforcing transparent terms and simple cancellation, ensuring trials remain a trusted bridge between Europe's consumers and its most innovative businesses.