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## **Introduction**

Pearle\*-Live Performance Europe, representing over 13,000 organisations and companies in the music, performing arts, and live events sectors, welcomes the opportunity to contribute to the consultation on the upcoming Digital Fairness Act (DFA).

As a general principle, Pearle\* supports the objectives of the forthcoming Act to ensure a **transparent and trustworthy online environment for consumers**. We welcome the initiative as an important step towards strengthening the overall framework for consumer protection and fairness in the digital economy.

While the **Unfair Commercial Practices Directive**<sup>1</sup>, the **Consumer Rights Directive**<sup>2</sup>, and the **Digital Services Act**<sup>3</sup> remain key pillars of EU consumer and digital law, experience shows that enforcement and legal clarity often are left behind due to fast-changing practices. The DFA provides a timely opportunity to close existing gaps between these frameworks, strengthen enforcement mechanisms, and guarantee that online markets operate transparently and responsibly for both consumers and legitimate businesses.

The cultural and creative industries, and in particular the live performance sector, stand at the intersection of the digital transformation. As millions of Europeans engage with live events and cultural content, the rules governing online transactions, advertising, data use, and consumer choice directly shape how audiences access and experience culture.

The DFA is therefore highly relevant to the sector, as an increasing share of interactions between cultural organisations and audiences occurs online. This includes the primary purchase of tickets, and the resale of tickets, where transparency and safeguards against misleading practices are essential, as well as the distribution and visibility of creative content on digital and streaming platforms, where fair treatment and clear information for consumers are key to maintaining trust and ensuring access to culture.

In this contribution, we wish to highlight four key issues that directly affect both consumers and the sustainability of the live performance sector:

- **Secondary ticketing**, which continues to create alongside accepted and legal forms of resale, unfair commercial practices and exposes consumers to fraud.
- **Dynamic pricing**, which can offer benefits for consumers if applied transparently
- **Online live events**, where online piracy constitutes a growing problem that undermines consumer rights and weakens the economic viability of cultural production.

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<sup>1</sup> [Unfair Commercial Practices Directive](#)

<sup>2</sup> [Consumer Rights Directive](#)

<sup>3</sup> [Digital Services Act](#)

- **Online streaming of recorded events**, where piracy of recorded performances by consumers is jeopardising the entire ecosystem.

**By addressing these challenges, the DFA can play a decisive role in ensuring that Europe's digital transition supports its cultural diversity, social cohesion, and the integrity of its Single Market.**

## **Comments**

### 1) **Secondary ticketing<sup>4</sup>:**

Over the past decade, **illicit secondary ticketing** has become one of the most persistent consumer challenges in the live performance sector. Despite EU-level provisions, implemented in national laws, alongside national campaigns initiated by the sector to inform consumers where and how to buy tickets, consumers remain exposed to **misleading offers, inflated prices, and fraudulent transactions**. The business model of professionally organised illegal resellers and ticket scalpers diverts revenue away from cultural and creative industries, undermines trust in the Single Market, and limits reinvestment in new artistic and cultural production.

Court cases in several Member States, along with campaigns led by industry and consumer organisations, have underlined the scale of the problem. Yet, due to the cross-border nature, the **fragmentation of national rules and inconsistent enforcement of existing EU legislation have created a patchwork of protection across the Union**.

Although the **Digital Services Act** introduced new tools, such as trusted flaggers and obligations for platforms to act against illegal content, experience so far shows that **enforcement remains slow and uneven**. Resale websites often ignore complaints and continue to profit from misleading offers. The cross-border nature of the problem further aggravates enforcement: operators can list tickets from outside the EU, frustrating national authorities, while consumers encounter **divergent national rules and unequal protection**. **This situation impacts bona fide resellers, distorts competition, undermines consumer trust, and highlights the need for coordinated EU action to safeguard a consistent level of protection within the Single Market**.

A key weakness in the current framework is the **lack of transparency on ticket resale websites**. Consumers rarely know the **original face value**, the **official seller**, or **whether resale is authorised**. This lack of clarity lies at the root of many consumer detriments and allows deceptive practices to persist.

One of the most harmful examples is the use of automated software ("bots") to bypass purchase limits and acquire large volumes of tickets as soon as they go on sale, which are then resold at several times their original price. Misleading marketing via websites, social media or other digital tools (e.g. whatsapp), further aggravates the problem, as resale websites frequently present themselves as authorised sellers, conceal the ticket's origin, or create artificial scarcity to pressure consumers into rushed decisions. Although the **Unfair Commercial Practices Directive** already recognises the use of bots for mass ticket purchases as an unfair practice, **implementation has shown limited effectiveness**, and the complex,

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<sup>4</sup> On secondary ticketing, Pearle\* is partnering with [FEAT](#), the Face-Value European Alliance for Ticketing.

cross-border structure of unauthorised resale websites continues to hinder effective oversight.

**The Digital Fairness Act can fill existing gaps in the legal framework by introducing EU-wide transparency and accountability requirements for online ticket sales and resales, supported by stronger and better coordinated enforcement across the Union.** Its role should be to ensure that when resale occurs, consumers are properly informed, protected, and able to make clear and reliable purchasing decisions.

**At the same time, the DFA should respect national policy choices and operate without prejudice to national frameworks that restrict or prohibit unauthorised resale** in pursuit of legitimate public interest objectives, such as cultural policy, consumer protection, fraud prevention, or public safety. **In this regard, it is important to recognise that some Member States, such as France, have already established specific legal provisions governing ticket resale, including prohibitions or strict conditions that reflect national cultural and consumer protection priorities.** The DFA should therefore complement these approaches and allow Member States to maintain or introduce stricter rules. **This balanced approach would deliver EU-wide clarity and protection for consumers, while preserving the ability of Member States and cultural organisers to uphold cultural policy goals and fair access to live events.**

**In practice, the Digital Fairness Act should:**

- Set **EU-wide transparency requirements** that oblige tickets sold online or through digital communication channels to clearly indicate:
  - The **face value** and **official seller**, and to ensure tickets are sold at face value;
  - The **applicable ticket category or seating area**;
  - Whether **resale is authorised**; and
  - Any **additional administrative costs or service fees**.
- Prohibit misleading self-presentation, such as implying official or authorised status, and assurance that consumers can easily distinguish **official sellers, authorised partners, and professional resellers**.
- **Ensure effective enforcement coordination with the DSA** by requiring prompt removal of illegal or misleading listings from platforms subject to the DSA, in line with the DSA's notice and action framework.
- **Ensure that any website, social media platform or other digital tool, offering tickets to an event without authorisation from the event organiser is put offline** in a very short period of time, as it is crucial for consumers to have the assurance that the resale ticketing is known, accepted and authorised by the organiser.
- **Strengthen cross-regulatory cooperation** to guarantee that regular joint sweeps of unauthorised ticketing websites and related online advertising are conducted by the Consumer Protection Cooperation (CPC) network and the Digital Services Coordinators (DSCs), in coordination with culture-sector authorities.
- **Reinforce accountability for non-EU operators** by ensuring alignment with the DSA requirement to maintain an EU establishment or legal representative, enabling effective service of process and enforcement of consumer protection measures.
- Promote stronger alignment between the DFA, CPC framework, and international enforcement networks to **address cross-border deceptive practices by operators based outside the EU**.

The planned Impact Assessment should therefore also address this specific issue when formulating options and solutions.

## 2) Dynamic pricing

Dynamic pricing is increasingly used by both commercial and subsidised cultural organisations. When implemented fairly and transparently, dynamic pricing can bring clear benefits for consumers (audiences) and cultural organisations alike by optimising pricing strategies, managing demand, encouraging early purchases, and generating additional revenue that supports cultural activity. It can also allow for increased participation and access to cultural events.

However, **the use of automated pricing systems and algorithms also raises important concerns about consumer fairness and transparency.** A lack of clear information on how prices fluctuate, the use of personal or behavioural data to personalise offers, or the creation of artificial scarcity and urgency can mislead consumers and erode trust.

Regulation and enhanced transparency are therefore necessary to make sure that dynamic pricing is applied responsibly. An outright ban on dynamic pricing should be avoided, as it could disproportionately affect organisations that use dynamic pricing in a balanced and equitable way. **The Digital Fairness Act offers an opportunity to establish horizontal principles of transparency and accountability for algorithmic and data-driven pricing practices across the EU. In particular, the DFA should:**

- **Ensure transparency and clarity in automated and algorithmic pricing**, requiring that consumers are clearly informed when dynamic pricing is applied, what factors influence price variations, and how prices evolve.
- **Guarantee final price certainty**, ensuring that the total price is displayed at the start of the payment process and remains unchanged during it.
- **Prohibit manipulative techniques**, such as false scarcity messages, time pressure, or hidden personalisation that may distort consumer choice.
- **Introduce safeguards for data-driven pricing**, preventing unfair discrimination based on personal or behavioural data and ensuring that such practices comply with fairness and non-discrimination principles.
- **Clarify the responsibilities of digital intermediaries and ticketing platforms** that implement or facilitate dynamic pricing systems to harmonise consumer protection standards across the Union.
- **Preserve accessibility and inclusivity**, particularly for publicly supported cultural institutions whose mission is to uphold broad participation in cultural life, so that pricing strategies do not undermine affordability.

Finally, there remain legal uncertainties concerning the regulation of dynamic pricing, with potential overlaps between EU and national rules. **Any EU initiative should therefore take into account existing regulations in order to avoid imposing additional constraints on live shows organisers and clarify rights and obligations while preserving flexibility for different cultural and business models.**

### 3) Online streaming of live events<sup>5</sup>

The illegal streaming of live cultural and sports events remains a major challenge in the digital environment, with serious implications for both consumers and legitimate cultural operators. While this problem is often viewed through the lens of copyright enforcement, **it also raises significant consumer protection and market integrity concerns that fall within the scope of the Digital Fairness Act.**

Illegal streaming platforms frequently mislead consumers by imitating authorised services, concealing their illicit nature, or promoting supposedly “free” and “safe” access to live events. In reality, users are often exposed to **fraudulent advertising, data harvesting, malware, and phishing scams**. Such practices exploit consumer trust and undermine the proper functioning of the market by enabling deceptive actors to operate outside the protections that ensure transparency and accountability for legitimate providers.

Although the European Commission adopted a **Recommendation on combating online piracy of sports and other live events**<sup>6</sup> in 2023, its practical impact remains limited. The main challenge lies in the time-sensitive nature of live content, where delayed removal of illegal streams causes irreversible harm once an event ends.

From a consumer perspective, users of illicit services are routinely exposed to **scams, identity theft, and cyber risks, as pirate sites often disguise themselves as legitimate providers**. Furthermore, unauthorised IPTV and streaming services, frequently promoted alongside VPN tools, mislead consumers with low-cost offers while providing no legal guarantees, such as refund rights, reliability, or data protection. These deceptive online practices undermine consumer trust, distort competition, and disadvantage compliant cultural and creative operators. **Addressing them within the Digital Fairness Act would help build a safer, more transparent, and fairer digital marketplace for both consumers and legitimate providers.**

While intellectual property enforcement remains governed by separate frameworks, **the DFA can make a meaningful contribution by targeting unfair and deceptive commercial practices that sustain illegal streaming and by reinforcing consumer protection and market transparency in the online cultural ecosystem. In particular, the Act should:**

- **Reinforce transparency obligations** for digital intermediaries and advertising networks to prevent the dissemination or monetisation of illegal streaming services.
- **Require clearer information for consumers** on the legitimacy of streaming services and the risks associated with using unauthorised platforms, including exposure to scams or data misuse.
- **Encourage coordinated enforcement** between consumer protection authorities, digital regulators, and cultural stakeholders to identify and sanction recurrent deceptive actors.

### 4) Streaming of recorded live events

Illegal downloading, uploading and redistributing streamed, recorded live events is a constant concern. These practices have a significant impact on the remuneration of live shows

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<sup>5</sup> Pearle\* is a member of the [Live Content Coalition](#) which brings together leading European live content producers, broadcasters, exhibitors, and ticket sellers to fight against the piracy of live events.

<sup>6</sup> [Commission Recommendation \(EU\) 2023/1018 of 4 May 2023 on combating online piracy of sports and other live events](#)

organizers, creators, artists, and performers, while offering little or no protection to cultural organisations acting as intermediaries.

From a consumer law perspective, cultural organisers face major difficulties in preventing such illegal activity. Streaming and content-sharing platforms often respond slowly (or not at all) to takedown requests, leaving few effective enforcement options.

Although this issue is traditionally addressed under intellectual property law, it also raises **consumer protection and market fairness concerns**. In many cases, consumers are misled into believing that they are accessing legitimate or authorised recordings when, in fact, they are engaging with illegal services that expose them to **security risks, scams, and privacy violations**. On the other hand, consumers do not always realise that they unintentionally contribute to illegal sharing of content, which is a matter of awareness raising from a young age onwards.

The slow or inconsistent response of platforms, despite their obligations under the **Digital Services Act**, allows infringing content to circulate widely. This undermines legitimate cultural operators, erodes the value of lawful services, and distorts competition in the cultural sector.

The **Digital Fairness Act** can play a **complementary role to the DSA** by tackling the **deceptive and unfair commercial practices** that facilitate or sustain illegal redistribution, while reinforcing consumer awareness about the legitimacy of online content and the risks associated with unlawful offers. **In particular, the DFA should:**

- **Address illegal downloading, uploading and redistribution of recorded live performances as an unfair and deceptive commercial practice**, to protect bona fide consumers who pay subscriptions to watch streamed performances.
- **Introduce clearer due diligence and transparency obligations for streaming platforms and intermediaries**, requiring them to act promptly on substantiated notifications from legitimate rights-holders or cultural organisations.
- **Reinforce cooperation between consumer protection authorities, cultural stakeholders, and digital regulators**, ensuring that persistent non-compliance with DSA takedown obligations results in meaningful sanctions.

This approach would align the **Digital Fairness Act** with the objectives of the **Digital Services Act**, ensuring a coherent and consumer-focused response to illegal digital practices while safeguarding the value of creative works and the integrity of the online cultural ecosystem.

## **Conclusion**

The Digital Fairness Act represents an important opportunity to fill the gaps in the existing EU consumer protection framework and to complement instruments such as the Unfair Commercial Practices Directive, the Consumer Rights Directive, and the Digital Services Act. By setting clear, harmonised, and enforceable rules for the digital marketplace, the Act can strengthen consumer trust and ensure a level playing field for legitimate operators.

Pearle\* urges the European Commission to use this opportunity to address the persistent challenges that affect both consumers and the live performance and cultural sectors, namely, deceptive secondary ticketing practices, the misuse of dynamic pricing, the online piracy of live events and illegal downloading of recorded streamed live performances. These issues not only undermine consumer rights and confidence but also directly impact cultural

organisations' ability to reach audiences, sustain their activities, and safeguard the continued vitality of Europe's live performance sector.