



DIGITAL FAIRNESS ACT – Consultation Response

The European VOD Coalition (the “**Coalition**”) brings together video-on-demand (**VOD**) and digital entertainment companies that share common values and invest in and distribute audiovisual content in the Europe Union as their core commercial activity. We promote high quality, diverse European content to wider global audiences and believe in supporting an innovative and sustainable European audiovisual sector, to give EU audiences greater choice in accessing content. VOD services operate in a competitive entertainment market, which incentivises content providers to continuously improve the value of their products by investing in quality and experience.

VOD services have become a powerful engine of growth within Europe’s audiovisual value chain. They are now among the largest investors in European production – in 2024, VOD services invested approximately €5.5bn¹ in original European content, helping to sustain jobs, stimulate local creative economies, and expand the reach of European stories, across the internal market and beyond. The expansion of SVOD services has directly fuelled growth in audiovisual production, the largest source of jobs in the sector, driving employment and creative output across Europe. By 2025, Subscription-based Video on Demand (SVOD) is projected to reach almost 17% of all EU audiovisual revenues².

Considering existing legislative requirements stemming from the Audiovisual Media Services Directive (AVMSD) as well as from the existing consumer law *acquis*, we urge for an approach that balances legitimate consumer protection objectives with the practical realities of running VOD businesses in Europe, which requires meeting consumer preferences and expectations. As set out in more detail below, whether it’s the prevalence of subscription business models, or the use of technologies such as “autoplay” or personalisation through recommendation systems to improve usability and content discovery, there is no evidence of our members’ activities being harmful for consumers.

¹ European Commission: Directorate-General for Communications Networks, Content and Technology, *The European media industry outlook – September 2025*, Publications Office of the European Union, 2025, <https://data.europa.eu/doi/10.2759/0606593> pg. 64

² Ibid., pg. 33



1. A simple and effective approach on VOD Subscription Contracts

Coalition Members operate transparent and user-friendly subscription models. Terms of service are clearly communicated, cancellation is straightforward and accessible, and reminder emails or account notifications are routinely provided – as required by Consumer Rights Directive³ as amended by the Omnibus Directive⁴ and complemented by the Unfair Commercial Practices Directive⁵. These practices ensure that users are fully informed and able to exercise their rights with ease. However, flexibility must be maintained for VOD providers to implement these mechanisms in ways that best suit their service design and user experience.

Introducing overly prescriptive obligations – such as a mandatory number of “clicks” to cancel or uniform requirements for renewal reminder emails – would be disproportionate and counterproductive to the actual usability of VOD services and potentially undermine innovation in user experience design. Similarly, imposing fixed requirements for reminder emails at pre-determined points in the customer journey would risk creating user “email fatigue” while offering little additional benefit and could diminish the effectiveness of genuinely important messages. VOD providers already maintain regular communication with users about service updates, ensuring that they remain fully aware of their active subscriptions. Overly rigid or duplicative rules would ignore the diversity of service models and user interfaces across devices, create significant technical and operational burdens, and undermine the overall user experience. They would also divert resources away from innovation and investment in European content.

1.1 Right of withdrawal waiver is fundamental for the sustainability of VOD services

The Coalition strongly supports simplification efforts that harmonise the application of the right of withdrawal waiver, reduce unnecessary administrative burdens, and facilitate compliance, particularly for smaller VOD providers, without imposing disproportionate costs.

The current waiver of the right of withdrawal for digital content, once consumption begins, accurately reflects user expectations of VOD services. Removing this waiver

³ Directive (EU) 2011/83 Articles 6-8

⁴ Directive (EU) 2019/2161 which reinforces transparency in digital services, particularly those involving subscriptions or recurring payments and requires traders to provide clear and prominent information about automatic renewals and cancellation procedures.

⁵ Directive (EU) 2005/29/EC which prohibits misleading or aggressive practices, including obscuring or complicating cancellation.



could lead to “binge-and-cancel” behaviour, undermining the commercial sustainability of services that invest heavily in European content. The Coalition calls on the Commission to maintain – and properly enforce – the current waiver of the right of withdrawal, as it represents a balanced and proportionate approach to how consumers access and enjoy on-demand services. We welcome the Commission's intention to simplify existing rules around the Right of Withdrawal to remove the risk of a harmful impact on the sector's financial sustainability.

Nonetheless, the Commission’s consideration of introducing a one-month withdrawal right with a pro-rated refund for longer-term contracts would create significant legal, technical, and practical challenges for VOD services and would not align with **its** underlying objective of simplification. In practice, there is no automated or objective mechanism to calculate pro-rated refunds in a subscription model where users gain immediate access to a full catalogue of content. Attempting to link refunds to actual viewing behaviour would be unrealistic, highly intrusive, and administratively complex, particularly given that rights to individual titles vary and change across different services over time and that our pricing model is based on the catalogue, not individual titles. Furthermore, some VOD providers rely on App Stores to manage subscriptions made by users through their respective apps, adding additional complexity to such a refund proposition. The proposed reform would therefore add unnecessary complexity without delivering meaningful additional user benefit. Additionally, such measures could unintentionally encourage short-term “binge-and-cancel” consumption, reducing the predictability of revenue streams that finance investment in European production. Simplification must therefore preserve the balance between consumer rights and the economic sustainability of content creation.

1.2 Users understand and appreciate Free Trials and “win-back offers” on VOD services

When offered, free trials are clearly optional, limited in duration, and cancellable at any time. Free trials serve an important role in promoting user choice by highlighting VOD services available in a particular market, as well as providing exposure to diverse works, including European titles. Free trial end dates are transparent, and consumers are told upfront when their trial will end and will convert to a paid subscription. Introducing an “opt-in” requirement for the conversion of free trials into paid subscriptions would be detrimental to both users and VOD services. It would introduce unnecessary friction into a well-functioning and transparent process, creating confusion and inconvenience for users while adding administrative and technical complexity for service providers – particularly where VOD services are offered as part of bundled packages.



Additionally, features such as the presentation of alternative, often lower-priced subscription options during the cancellation process (so-called “win-back offers”) are standard commercial practices that offer users flexibility and choice. These features are transparent, do not prevent contract termination, and are used by some VOD services to retain subscribers so that they can reinvest in high-quality European content.

Our ask

The Coalition therefore recommends maintaining the current approach to ensure a seamless user experience and support the continued growth and innovation of the European audiovisual sector. We urge that any eventual intervention in this area does not duplicate existing rules and is proportionate and evidence-based and avoids introducing prescriptive rules.

2. Easy to use interfaces on VOD services are valued by users and flexibility is key

VOD user interfaces are designed to facilitate content discovery and enhance audience engagement, ensuring that viewers can easily access and enjoy works aligned with their interests while also promoting the visibility of diverse catalogues, including European and independent productions. These interfaces prioritise clarity, accessibility, and ease of navigation, enabling users to explore catalogues that often comprise tens of thousands of titles. Features such as personalised carousels, search suggestions, and curated collections play a crucial role in enhancing discoverability and ensuring that audiences can meaningfully engage with available content. Rather than manipulating user choice, these design elements support informed, user-driven decisions and contribute to a positive and efficient viewing experience. On-demand consumption is inherently intentional and centred on long-form storytelling through films, series, and documentaries, with functionalities such as “autoplay”, personalised recommendations, and parental controls further improving usability and ensuring a safe and satisfying environment for all viewers.

Therefore, whilst the Coalition recognises the Commission’s objective of ensuring that consumers remain in control of their online experiences, we submit that it is essential to distinguish between genuinely problematic practices and the underlying technologies or business models through which they may operate. Features of VOD services such as personalisation, recommendation systems, or user interface design, are not inherently harmful and often serve important user experiences and facilitate content discovery. The problem lies not in their use, but in the risk of automatically labelling legitimate, user-



friendly design features as “dark patterns” or “addictive design.” Such an approach could inadvertently stigmatise practices that enhance, rather than undermine, user experience and engagement.

2.1 Personalisation supports the usability of VOD services

Personalised content recommendation is a core component of VOD services, designed to improve discoverability and user experience. Personalisation, combined with flexibility when it comes to user interface design, is also what makes each one of our members’ services unique, instead of all looking the same. This helps viewers choose between different services and pick whichever they think is best suited to their needs and tastes. Importantly, VOD personalisation systems form part of the editorial curation of the service. They are based on user-initiated activity, not on the exploitation of sensitive data or behavioural vulnerabilities. Clear labelling (e.g. “Because you watched...”), parental filters, and child-specific profiles all ensure transparency, accountability, and user empowerment. By tailoring recommendations to user preferences – such as previously watched genres or searches – personalisation enables audiences to find relevant content more easily, including European works that might otherwise remain unnoticed. Additionally, without personalisation, users would find the sheer size of VoD content catalogues unwieldy and difficult to navigate.

2.2 Autoplay is a standard and user-friendly feature that enhances the viewing experience

In the context of VOD services, autoplay supports narrative continuity and user convenience by allowing episodes to flow naturally, reflecting user expectations shaped by long-form storytelling and traditional broadcasting. Unlike autoplay on other digital platforms, which is often designed to drive continuous engagement with unsolicited content, VOD autoplay is transparent, limited in scope, and always under user control. Viewers can easily disable it in their account settings, and many services automatically turn it off in child-specific profiles. We believe in empowering consumers with choice, enabling them to tailor their viewing experience according to their individual and family preferences and needs.

Existing EU legislation, notably the Unfair Commercial Practices Directive, already prohibits misleading or aggressive commercial practices, while the AVMSD provides additional safeguards for minors. Introducing new or overlapping rules risks creating legal uncertainty and could unintentionally classify legitimate and pro-consumer design



elements as “addictive designs” or “dark patterns.” The Commission should therefore prioritise consistent enforcement of the current framework and draw upon existing external guidance (e.g. from the OECD, EDPB, and national authorities) rather than introducing new blanket prohibitions.

Our ask

The Coalition urges the Commission to recognise that VOD services already operate within a well-regulated, transparent, and consumer-friendly framework, and as such any additional, one-size-fits-all regulatory intervention would be disproportionate. The Commission should therefore distinguish between practices found in other digital environments and the user-friendly recommendation systems characteristic of VOD platforms. Any further regulatory action in this area should adopt a risk-proportionate approach, focusing on promoting user choice and transparency rather than imposing blanket prohibitions that would disrupt legitimate and beneficial user experiences

3. Advertising supports the sustainability of the AV sector

Advertising revenues are a vital source of funding for European audiovisual production and ensure the continued affordability of VOD services. Both advertising-supported models and tiers not only enhance user choice but are also essential to the economic viability of Europe’s audiovisual ecosystem, complementing subscription-based services and supporting media pluralism.

3.1 Personalised advertising

European consumers already benefit from a robust and comprehensive regulatory framework governing data use and advertising, including the General Data Protection Regulation (GDPR), the Digital Services Act (DSA), the Digital Markets Act (DMA), the AVMSD and the ePrivacy Directive. Together, these instruments establish clear obligations on transparency, consent and accountability, while the AVMSD provides particularly strong safeguards for minors, including strict limits on profiling and behaviourally targeted advertising. Introducing additional or overlapping measures would risk undermining legal coherence and creating unnecessary regulatory complexity, without delivering tangible benefits for users.

Our ask



The Coalition supports a risk-based, proportionate approach to regulation in this area. Broad restrictions could undermine discoverability, limit exposure to European content, and disrupt existing commitments to cultural diversity. For example, the Commission should avoid characterising all forms of personalised advertising or all implementations of recommender systems as inherently problematic. Well-implemented personalisation enhances user choice and convenience, rather than detracting from it. Any policy intervention should be carefully targeted, proportionate, and focused on the appropriate level of the value chain to avoid unintended consequences.

CONCLUSION

Video-on-demand services are already well regulated, transparent, and user-oriented. The Coalition shares the Commission's goal of ensuring a safe and trustworthy online environment. However, any future changes to EU consumer law should be carefully targeted and evidence based. As set out above, they should address genuine consumer harms while recognising the specific regulatory context in which VOD services operate.

Fairness must operate in both directions: protecting consumers while also safeguarding the business models that underpin European audiovisual investment. Applying uniform obligations across fundamentally different digital sectors would be counterproductive and risk undermining Europe's creative economy.

Policy initiatives should focus on simplification rather than duplication, ensuring coherence across the existing legal framework. Above all, the Commission's approach should seek to balance consumer protection with the continued sustainability and competitiveness of Europe's media and audiovisual sector.