Omnibus proposal: EU consumer rules need to be adapted to the reality of the digital economy

Brussels, 22 January 2019

On 22 January, Members of the European Parliament's Committee on the Internal Market and Consumer protection (IMCO) voted on MEP Daniel Dalton's report on the proposed revision of EU consumer protection rules.

"*In the European Union, 1 in 5 consumers already shop through voice and text technologies. The EU consumer protection framework needs to be adapted to technological developments and lead to a better functioning of the Single Market, that will benefit both consumers and the industry*", commented Cecilia Bonefeld-Dahl, DIGITALEUROPE'S Director General.

DIGITALEUROPE welcomes the Rapporteur's efforts to reach an ambitious and balanced text, which aims at both strengthening consumer protection in the European Union and modernizing existing rules. Overall, MEP Dalton's proposal is an improvement on the initial text, though some key areas could be refined. Please see our key observations below:

- **Transparency requirements**: While we agree in principle with increased transparency on online marketplaces, we strongly believe that overloading consumers with technical information will not help them make a more informed decision nor facilitate an easy comparison of products. In fact, disclosing every detailed parameter that makes up rankings could endanger trade secrets, potentially infringe intellectual property, and lead to seller competition abuse to achieve top rankings. We call on co-legislators to secure a clear recognition of trade secrets as per the Commission's proposal in the Platform-to-Business (P2B) proposal.

- **Monitoring requirements:** We strongly caution against including rules in the Omnibus proposal that obliges marketplaces to actively monitor marketplaces. We urge the co-legislators to ensure that the omnibus Directive does not contradict or undermine the existing eCommerce Directive.

- **Penalties**: We agree with the European Parliament's consideration that basing penalties on companies' global turnover would be disproportionate and support all amendments adding criteria for determining the level of the penalty. However, we recall that as pointed out in the 2017 EU Consumer Condition Scoreboard, there is no correlation between high fines and a high level of compliance and consumer trust. It is crucial that penalties are assessed on a case-by-case basis, strictly proportionate to the level of the violation and only applied in the Member State or Member States where the violation took place.

- **Pre-contractual information**: Pre-contractual information requirements need to be adapted to the technological era, which will increasingly use Artificial Intelligence and the Internet of Things and often have very limited space or time to display information. It would therefore be inappropriate to oblige traders to show extensive information on these devices when other available means of communication can provide, in an easily accessible and less burdensome way, the information the

consumer needs. An application used to set up these devices fluidly fills this gap and would ensure futureproof legislation.

To recall, the results of the 2017 Fitness Check of consumer and marketing law demonstrated that existing rules are overall fit for purpose but would benefit from certain aspects being clarified and brought into line with the reality of the digital economy. DIGITALEUROPE looks forward to closely work with the EU institutions in 2019 to ensure that we can collectively deliver on the abovementioned goal.

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ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total over 35,000 ICT Companies in Europe represented by 63 Corporate Members and 40 National Trade Associations from across Europe. Our website provides further information on our recent news and activities: http://www.digitaleurope.org

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