

GDPR Harmonisation and the Digital Fairness Act (DFA)

TUI supports the European Commission's commitment to strengthening consumer trust, fairness, and coherence in the EU's digital environment through the GDPR Procedural Regulation and the forthcoming DFA. Both initiatives aim to create a more consistent and predictable digital framework. If implemented in a proportionate and evidence-based way, they can enhance consumer protection whilst preserving Europe's competitiveness and innovation capacity.

1. GDPR Harmonisation: A Stable Core with Room for Alignment

The General Data Protection Regulation (GDPR) remains the global standard for privacy and data protection. However, uneven interpretation and enforcement across Member States continue to cause legal uncertainty and administrative complexity — an issue highlighted in the Commission's Impact Assessment for the GDPR Procedural Regulation (2023). TUI supports a streamlined GDPR framework that ensures consistent interpretation and enforcement, effective cross-border cooperation between data protection authorities, and predictability and trust for both consumers and businesses. A more harmonised GDPR will strengthen enforcement whilst preserving its risk-based flexibility — allowing legitimate, customer-centric data use to continue supporting innovation.

2. Digital Fairness Act: Rules should target Manipulative Practices, Not Legitimate Personalisation

The forthcoming DFA, as outlined in the Commission's Fitness Check on EU Consumer Law on Digital Fairness (2024), seeks to modernise EU consumer protection by addressing unfair or manipulative online practices. TUI supports this goal and recognises the need to regulate

dark patterns, non-transparent or exploitative personalised pricing, addictive or misleading design features, and unclear influencer marketing or subscription models.

TUI agrees that unfair and opaque personalised pricing should be controlled — much of which is already covered by the Unfair Commercial Practices Directive (UCPD) and the GDPR's fairness principles, in addition to the new enforceable duties specified in the Digital Services Act (DSA). However, the DFA should clearly differentiate these from legitimate, transparent personalisation and dynamic pricing, which are lawful, data-driven, and benefit consumers by improving relevance, flexibility, and value.

3. Transparency, Dynamic Pricing, and Customer Benefit

Dynamic pricing is an established, transparent practice in the travel and tourism sector, reflecting availability, seasonality, and demand. When explained clearly, it enables consumers to make informed, value-based choices. Regulation should focus on clarity and predictability, not on restricting legitimate commercial flexibility. Package holidays and dynamic packaging already represent best-in-class consumer protection, combining transparency, refund guarantees, and clear liability rules under a single contract.¹ Moreover, regarding

¹ In the travel industry, dynamic pricing means that prices for holidays, flights, hotels, or rental cars change based on demand, availability and seasonality. For package holidays, prices can vary depending on how many seats or rooms are left, how close the departure date is, and how popular the destination is.

For individual components like flights or hotels, prices often change in real time. For example, booking a flight early might be cheaper, but prices can rise quickly if demand increases or availability drops. Benefits for providers: Adjusting prices to match demand; helps fill seats and rooms more efficiently, avoiding empty capacity. Benefits for consumers:

legitimate data-driven optimisation, it is important to note that in the travel and hospitality sector, personalisation is primarily driven by demand patterns and inventory dynamics rather than individual profiling.

4. Coherence Across EU Digital Rules

The Fitness Check (SWD(2024) 128 final) highlights that the DFA will operate in a complex regulatory ecosystem, including the Digital Services Act (DSA), Digital Markets Act (DMA), Data Act, AI Act, and ePrivacy Directive. It also recognises that most of these frameworks are too new to evaluate, and that enforcement challenges persist. TUI supports the Fitness Check's conclusion that effective enforcement and assessment of existing rules should be prioritised before introducing new layers of regulation.

Side Note: A streamlined, consistently enforced GDPR is a pre-condition for the effective implementation of several measures envisaged under the DFA. Many of the practices the DFA seeks to address — such as manipulative personalisation or coerced consent — already depend on data-protection principles like fairness and transparency. Strengthened GDPR enforcement will therefore provide the necessary foundation for coherent and effective consumer protection.

Conclusion

TUI believes that well-designed, coherent regulation can both protect consumers and promote responsible innovation. A harmonised GDPR and a proportionate Digital Fairness Act will reinforce Europe's position as a leader in trust-based, data-driven markets, supporting transparent, competitive, and customer-centric digital services in the travel and tourism sector.

Travelers who book early or choose less busy times can get better deals; It allows for more choice and flexibility, as prices reflect real-time market conditions. In short, dynamic

pricing helps balance supply and demand, making travel more efficient and often more affordable for those who plan smartly.