Ecommerce Europe contribution to TRIS Notification 2026/0294/ES

Ecommerce Europe is the united voice of the European Digital Commerce sector, representing the interests of companies selling goods and services online to consumers in Europe. Our association places a high value on the coherence of national regulations with EU law and regulatory harmonisation at the EU level, as these are key factors for our sector's continued expansion in the EU, conducive to stronger European competitiveness.

Ecommerce Europe is concerned about the potential adverse effects of the **Preliminary draft law on Sustainable Consumption**, which aims not only to transpose the Directives on Right to Repair (Directive 2024/1799) and Empowering Consumers for the Green Transition (Directive 2024/825) into Spanish law, but it also seeks to introduce a larger set of new rules that exceed the scope of the aforementioned Directives.

If implemented, the rules introduced by this **law** would create unjustified barriers to intra-EU trade and fragment the EU' internal market. Specifically, the rules regarding pricing would have a drastic effect on the digital economy, particularly for intermediaries that have no control over pricing strategies employed by businesses operating via their platforms. Moreover, there is a substantial risk that the obligations to be imposed by the **law** would conflict with the country-of-origin principle. Other problems that might arise from this law concern consumer reviews, the penalty regime and the reversal of the burden of proof. Some of these subjects are already actively discussed in the context of the future Digital Fairness Act.

We therefore support the industry call to reconsider these measures to ensure compliance with the principles of free movement of goods and intra-community trade. In particular, **we would like to reiterate the points raised by Ecommerce Europe's member, Adigital, in their contribution from 13 August** attached to this document.

ADIGITAL'S CONTRIBUTION FOR THE TRIS PROCEDURE ON THE PRELIMINARY DRAFT LAW ON SUSTAINABLE CONSUMPTION

On June 12, 2026, the Spanish Government notified the European Commission of the Preliminary Draft Law on sustainable consumption (hereafter referred to as draft) in compliance with the TRIS (Technical Regulation Information System) procedure. The draft text had been previously submitted to a public information process by the Spanish Ministry of Social Rights, Consumer Affairs and 2030 Agenda from July 4 to August 31 2025. Also, it had also been previously submitted to the TRIS Procedure from 20 February to 26 May 2026.

The TRIS procedure, established by Directive 2015/1535, introduces the obligation for Member States to notify the Commission of technical regulations related to information society products and services prior to their adoption to ensure that these are compatible with European Union law and do not create any barriers for the proper functioning of the internal market.

From the date of notification, a standstill period of three months is opened, during which the European Commission and the Member States can examine the text of the notified draft and make contributions if they consider so. Furthermore, during this period, the Member State that has notified the draft cannot adopt it. In the case of this draft law, the standstill period ends on September 15.

Adigital, the Spanish Association of Digital Economy, appreciates the opportunity to provide input to this TRIS procedure.

GENERAL COMMENTS

The Spanish draft bill on sustainable consumption purports to transpose the Directive (EU) 2024/825 (Empowering Consumers for the Green Transition, hereinafter 'ECGT Directive') and Directive (EU) 2024/1799 (Right to Repair Directive) into Spanish law. However, in multiple material respects, the draft law goes substantially beyond what either directive requires, introduces new obligations, may impose disproportionate and technically impossible burdens on businesses, and uses the transposition of EU Directives as a vehicle to push through national measures that are not envisaged in the Directives being transposed. The Draft Law creates a Spain-only regulatory layer on top of a fully harmonised EU framework, fragmenting the internal market contrary to established CJEU jurisprudence. To the best of our knowledge, no other Member State has enacted or proposed legislation similar to the one set out in Articles 20.1 (c), 27.10, 97. 1 (f), and 20 in the draft law. Spain would therefore be the sole Member State imposing these obligations, creating a compliance asymmetry that penalises businesses operating in or into the Spanish market.

Specifically, the draft imposes obligations regarding price configuration, forecasting of future prices, price caps and environmental characteristics that depend on algorithms, commercial decisions and data exclusively controlled by the final providers. From Adigital, we believe that these obligations could affect the digital economy, especially intermediaries, since they would possibly be held liable for information or pricing strategies they do not control, not taking into account the principle of proportionality and the technical nature of digital intermediation. It also imposes Spain-specific compliance obligations on online platforms established in other Member States, conflicting with the freedom to provide services and the country of origin principle. For this reason, **we consider the text should include a transversal safeguard clause that exempts intermediaries, aggregators, and search engines from information obligations, price limitations, and the provision of historical records when the base price, product characteristics, or emissions depend wholly or partially on a third-party provider, limiting the intermediary's liability to its own margins or service fees**. In this regard, we would also suggest incorporating a general exemption clause applicable to the obligations of the draft law. This clause should explicitly clarify that digital platforms, acting as mere intermediaries, cannot be held liable for compliance with obligations concerning product characteristics or pricing strategies when they do not exercise actual control over such variables. This exemption, grounded in the technical nature of digital intermediation, is crucial to providing legal certainty while ensuring that the regulatory framework remains neutral, balanced, and consistent with the principles of the Digital Services Act (DSA).

SPECIFIC COMMENTS

On the regulation of dynamic and personalised pricing

The draft bill considers the use of dynamic pricing unfair unless the consumer is informed beforehand of the minimum and maximum price, as well as its historical evolution. For an intermediary, this is technically impossible. Mandating this at a national level creates an insurmountable barrier for pan-European intermediaries and represents unjustified "gold-plating" compared to the EU Omnibus Directive (EU) 2019/2161, which only mandates transparency regarding automated personalised pricing. **We propose explicitly exempting intermediaries and search engines from national restrictions on dynamic pricing when the base price is not set by them. Alternatively, strictly align the text with the EU Omnibus Directive, removing the national "gold-plating" obligation to predict or report maximum and minimum caps that the seller does not control.**

The obligation to present consumers with an estimated future price range up until the date of the service imposes a disproportionate algorithmic burden and constitutes an unjustified restriction on the freedom to provide services (Article 56 TFEU). For example, in the travel sector, where fares fluctuate globally, forcing a platform to develop predictive algorithms exclusively for the Spanish market based on third-party inventory (airlines/hotels) is unfeasible.

Furthermore, this national requirement contradicts the current regulatory direction of the European Union. The official stance of the European Commission is to protect dynamic pricing in sectors where it is structural. Recently, the EU Commissioner for Justice and Consumers, Michael McGrath, publicly confirmed that the upcoming EU Digital Fairness Act will not ban dynamic pricing, explicitly arguing that it "*is an important part of the economy in sectors like hotels and aviation*". While Europe seeks more transparency so that consumers do not suffer unexpected price increases while queuing or during the checkout process (drip pricing), the EU does not, and will not, require businesses to predict the future or publish estimated future price ranges for services subject to real-time market fluctuations. Imposing this in Spain is a case of "gold-plating" that fragments the Digital Single Market.

We recommend removing the obligation to provide estimated future price ranges. Should the legislator decide to maintain this obligation, it must be strictly limited to specific sectors where there is a clearly justified and demonstrated need for such a measure. In any event, an explicit exemption must be introduced to exclude sectors where pricing has traditionally and structurally been dynamic. This specific exclusion would directly align the Spanish draft bill with the European Commission's stated position, recognising that dynamic pricing is a legitimate and necessary economic feature in specific industries.

Also, the draft law provides that once the purchase process has commenced, no variation in price may occur at any point during that process. Critically, the measure fails to define the moment at which the "purchase process" is deemed to begin and fails to recognise, in the case of intermediaries, that dynamic pricing strategies are outside of the control of the intermediary

and dictated by underlying suppliers, as stated by the EU Commission in its Guidance on the interpretation and application of Directive 2005/29/EC .

The draft mandates that businesses store the historical track record of published reference price ranges for a minimum of three years to keep them at the disposal of competent authorities. This is an unprecedented requirement not found in any other EU member state, nor is it required by the Omnibus Directive, representing a case of national "gold-plating".

The three-year retention period seems aligned with the statute of limitations for "grave" infractions under the Spanish Consumer Law, possibly transferring the entire burden of evidence preservation onto digital platforms "just in case" an inspection occurs. For intermediaries, which process millions of dynamic pricing fluctuations daily based on global third-party inventory, **storing this volume of data imposes an astronomical, technically unfeasible, and environmentally unsustainable server infrastructure cost**. This could violate the principle of proportionality under EU law. Furthermore, if setting and guaranteeing future price ranges are technically impossible for intermediaries, mandating the storage of this flawed or non-existent data for three years is equally unworkable. We advise deleting the obligation to store the historical track record of reference price ranges. Alternatively, explicitly exempt sectors where pricing is dynamically determined by third-party providers, as generating and storing this data is technically, economically, and operationally disproportionate.

On price capping in emergency situations

The draft bill prevents price increases above the maximum offered in the previous 30 days or a 50% increase over the average price in emergency situations. If a provider raises its price during an emergency, and the law forces the intermediaries to cap the final price, they would be forced to sell at massive losses or withdraw the inventory, harming consumer connectivity precisely when it is most needed. Therefore, **we consider it crucial that in the case of goods or services marketed through intermediaries, the price restriction shall apply exclusively to the primary provider who sets the base price and not to the intermediary**.

On resale price capping

The draft law includes a total cap on the resale price of contracts for the supply of goods or provision of services to consumers or end users, which has no equivalent in EU law. This conflates resale with intermediation. Authorised resellers and aggregators add real consumer value, aggregation, multi-language/multi-currency, and customer service. This provision is a restriction on the freedom to provide services and on price-setting freedom, and it implies *de facto* a prohibition of the whole intermediation activity. **Such a measure must be necessary, proportionate and justified by a previous technical analysis which has not been carried out in this case.**

On the prohibition of passing certain management fees to consumers

The draft explicitly prohibits charging management or administrative fees to consumers if these correspond to operational costs that the company should assume and do not represent an

additional service. In the European model, "management fees" (service fees) are the legitimate and transparent remuneration for the intermediation service, the technological aggregation of options, customer service, and the management of cross-border bookings. Furthermore, for example, innovative business models such as travel subscriptions base their value on the recurring savings of these fees. **Banning or limiting their collection restricts the freedom of establishment and the freedom to provide services, distorting the level playing field within the Internal Market.** We encourage clarifying the wording of Art. 20.1.c that the prohibition on management fees shall not apply to service, intermediation, or subscription fees charged by digital platforms, understanding the work of aggregation, intermediation, and after-sales as a legitimate and independent "additional service" to that of the primary provider.

On online reviews

The draft includes a series of obligations regarding online reviews. It should make clear that the new obligations rely entirely on the notice-and-action mechanisms set out in Article 16(2) DSA and do not impose any active search or monitoring obligations on platforms. Otherwise, such obligations would be contrary to Article 8 of the DSA.

We believe that introducing a 30-day threshold could significantly reduce the likelihood of consumers posting a review, resulting in a loss of valuable content that helps other users make informed decisions. This measure could also disadvantage certain Spanish businesses compared to establishments in other markets with a higher volume of reviews, given that, in many cases, businesses with more positive reviews achieve greater visibility and a higher number of customers. Currently, most platforms already have their own policies establishing timeframes for publishing reviews, which are transparently defined for users. These periods can vary depending on the platform. **The imposition of a uniform 30-day limit would therefore be arbitrary and fail to account for the specific characteristics of different operating models.**

30 days is also an artificially short time period in which to evaluate a purchase. In the case of goods, a consumer may need to use the item for longer than a month in order to adequately experience it and develop a point of view. In some cases, faults may only become apparent after a month of use but reviews warning consumers of this would not be allowed under the 30 day provision. Equally, in the case of services, such as hotel bookings, consumers may raise complaints related to their stay that require more than 30 days to resolve. If the business needs more time to reach a satisfactory resolution for the customer, the consumer's final experience could not be reflected in the review, losing a more complete and balanced view of the service received. Establishing a 30-day limit would not effectively contribute to combating fraudulent reviews. Users intending to post a fake review could simply adapt their behaviour to comply with this timeframe. Conversely, legitimate consumers who wish to share their experience but have not had the opportunity to do so within 30 days or are unaware of this limitation might simply give up on posting their review.

On the allocation of responsibility for online marketplaces

The draft law introduces national obligations for search engines and marketplaces regarding the ranking of offers and comparison methods. These rules overlap and conflict with the

existing and fully harmonised EU frameworks, specifically the P2B Regulation (EU) 2019/1150 and the Digital Services Act (DSA), creating severe legal uncertainty for cross-border operators. Legislating at a national level on search engine parameters generates fragmentation in the Digital Single Market. **We recommend deleting the sections that regulate ranking transparency and comparison in platforms, referring instead directly to the application of the currently valid P2B Regulation and DSA at the European level**.

On the reform of the penalty regime

The proposed regime raises fines up to 6% of a company's global annual turnover for "very grave" infractions. This percentage is disproportionate and misaligned with the established European standard. Specifically, the EU Omnibus Directive (Directive (EU) 2019/2161), by amending Article 13(3) of the Unfair Commercial Practices Directive (2005/29/EC) and others, sets the maximum fine for widespread infringements subject to coordinated enforcement under Article 21 of the CPC Regulation at 4% of the turnover in the Member State or Member States concerned, not the global turnover.

In fact, the Spanish draft law is internally inconsistent: while it correctly acknowledges this 4% limit for CPC coordinated actions in its proposed Article 49.4, it incongruously imposes a 6% global turnover cap for national infractions in Article 49.1(c). Penalising a company based on its global revenue for a localised issue creates legal uncertainty and fragments the European penalty framework. Therefore, **we suggest strictly aligning the maximum penalty limit with the EU framework, reducing it to 4%, and applying it exclusively to the turnover generated in the Member State (or States) where the infringement took place**.

On the application to air transport and advertising restrictions

The text bans the advertising of fossil-fuel-powered transport if an alternative mode taking less than 2.5 hours of additional time exists. For example, for intermediaries and metasearch engines, showing flight results is a very important part of their search service. If simply displaying flights is considered "advertising", this would censor consumers' access to truthful information about their transport options, possibly restricting the freedom of commercial speech and the cross-border provision of transport services. **We believe a clarification is needed in the first final provision so that the objective display of search results, itinerary comparison, and the marketing of tickets through intermediaries or aggregator platforms shall not be legally considered "advertising"**.

On environmental claims, durability and circularity and the right to repair

While we fully share and support the draft bill's underlying objectives of empowering consumers, promoting durability, and fostering the green transition, **we strongly advocate for a more pragmatic regulatory approach that avoids disproportionate burdens and safeguards the integrity of the European internal market**. Regarding environmental claims (Article 1), it is absolutely critical that Spain's domestic definitions and requirements strictly align with the EU's Empowering Consumers Directive (Directive 2024/825) and the Unfair Commercial Practices Directive (Directive 2005/29/EC). Diverging from these harmonised EU definitions introduces

severe risks of legal fragmentation, creating a dual-standard environment that undermines legal certainty for businesses operating across multiple jurisdictions and compromises the consistent, predictable application of consumer protection rules throughout the Union.

This demand for regulatory coherence must also extend to the practical measures designed to promote circularity. While we support the broader goals of sustainability, **imposing a general 10-year spare parts availability requirement (Article 2, Article 127a) is disproportionate and structurally misaligned with rapidly evolving technological cycles, supply chain capabilities, and actual consumer behaviour**. Maintaining active production lines, storage facilities, and complex logistical networks for outdated components, which are rarely, if ever, requested in the latter half of a product's life cycle, imposes a massive and inefficient financial and resource burden on original equipment manufacturers (OEMs). **To avoid undermining Spain's industrial competitiveness, we advocate for a more pragmatic threshold that strictly respects existing sector-specific EU frameworks** (such as the 5-year limit in the EU Battery Regulation or the 7-year standard in the Eco-design Regulation for smartphones and tablets), and we strongly recommend a general default threshold of 5 years for any product categories not already governed by specific European regulations. In light of this, it is important to clarify whether a reference to Annex II is sufficient to exclude covered products from Spain's 10-year spare parts obligation, or whether further national guidance is necessary to ensure legal certainty and regulatory coherence. In particular, we advocate for transparency regarding any future updates to Annex II, such as the potential inclusion of Lot 3, so that businesses can anticipate changes and plan accordingly.

With regard to the **right to repair**, consumers benefit most from a repair fund when it encourages broad participation from repair businesses. To ensure that:

- It is essential to keep entry requirements manageable for repair businesses, taking into account the various forms they can take (from small businesses to worldwide businesses);
- Repairers are more likely to participate in the fund when they aren't required to shoulder the financial burden of claiming repair contributions on behalf of consumers;
- Consumers can be empowered to claim their repair vouchers directly through familiar, accessible platforms, like tax portals or dedicated online systems.

This approach leads to higher savings for consumers by minimising administrative costs and ensuring that financial benefits are directly passed on to consumers without extra overhead.

In addition to it, **the proposed fund requiring producers to cover a fixed percentage of repair costs in a tiered system (20% in the first two years following the end of the legal guarantee, 10% for the next two years, and 5% if the repair happens in the fifth year) introduces substantial practical and economic challenges**. First, indexing the subsidy on the repair price makes it complex to forecast appropriately the amounts required to finance the fund, which threatens its economic viability. Indeed, repair costs vary significantly depending on the product type, the complexity of the repair, the cost and availability of spare parts and the pricing practices of repairers, which differ widely across sectors and regions. As a result, forecasting the financial effort required from producers would be extremely complex and likely to bring unbalance to the waste management schemes, if the fund were to be financed through

them and included in the recycling fee. Calculating a fair and proportionate contribution becomes extremely difficult. Without a reliable basis for estimating financial contributions, the scheme risks creating budgeting uncertainties and inefficiencies that could undermine both its effectiveness and its fairness.

SPECIFIC PROPOSALS FOR AMENDING THE ARTICLES

PROPOSAL n.º 1

Amendment for MODIFICATION. Explanatory note.

Original text:	**Amended text:**
Likewise and moreover, in order to ensure that companies cannot resort to misleading communications about their environmental performance, even indirectly, it is necessary that the companies' own brands or trade names cannot cause confusion or deception by falsely attributing ecological or sustainable characteristics to the brand image itself. When a company uses terms such as 'green', 'eco', 'sustainable' or symbols associated with caring for the environment in its brand image, without genuine backing, it not only manipulates the perception of the consumer, but also discredits the effort of those organisations that do adopt responsible and verifiable practices and thereby help to build a framework of fair competition.	Likewise and moreover, in order to ensure that companies cannot resort to misleading communications about their environmental performance, even indirectly, it is necessary that~~ the companies' own brands or trade names~~ **their commercial communications** cannot cause confusion or deception by falsely attributing ecological or sustainable characteristics to ~~the brand image itself~~ **their products or services**. When a company uses terms such as 'green', 'eco', 'sustainable' or symbols associated with caring for the environment in its ~~brand image~~ **commercial communications**, without genuine backing, it not only manipulates the perception of the consumer, but also discredits the effort of those organisations that do adopt responsible and verifiable practices and thereby help to build a framework of fair competition.
Justification: The EU Directive 2024/825 (Empowering Consumers for the Green Transition – ECGT), as per its definition of 'environmental claims', only addresses the use of "labels, brand names, company names or product names, in the context of a commercial communication". However, it does not outright prohibit terms or expressions from being included in company or brand names that may "mislead or cause confusion in commercial dealings regarding the identity of the company or entity itself, the type or nature thereof, or its environmental performance" as is proposed in the Sustainable Consumption Law. Thus, the introduction of these prohibitions in the Sustainable Consumption Law brings legal uncertainty in particular for existing brand and company names, trademarks and trade names. It risks disharmony across the single market's trademark rules, as a company's branding or use of a sign allowed in other Member States could be refused or cancelled in Spain.	

Prohibitions proposed in a Member States' national system should align with the ECGT's requirements by focusing strictly on the use of signs in business-to-consumer communications.

PROPOSAL n.º 2

Amendment for ELIMINATION. Second final provision. Amendment to the Commercial Registry Regulations, approved by Royal Decree 1784/1996 of 19 July 1996.

Original text:	**Amended text:**
Article 406 of the Commercial Registry Regulations, approved by Royal Decree 1784/1996 of 19 July 1996 is amended to read as follows:	~~Article 406 of the Commercial Registry Regulations, approved by Royal Decree 1784/1996 of 19 July 1996 is amended to read as follows:~~
'Article 406. Prohibition of misleading names.	~~'Article 406. Prohibition of misleading names.~~
The name may not include any term or expression that could mislead or cause confusion in commercial transactions regarding the identity of the company or entity, its type or nature, or its environmental or social performance.	~~The name may not include any term or expression that could mislead or cause confusion in commercial transactions regarding the identity of the company or entity, its type or nature, or its environmental or social performance.~~
Company names that include environmental, ecological or sustainable references shall not be considered misleading or confusing when such references are backed by internationally recognised certifications, such as ISO 14021, ISO 14024, EPEAT or other equivalent certifications.'	~~Company names that include environmental, ecological or sustainable references shall not be considered misleading or confusing when such references are backed by internationally recognised certifications, such as ISO 14021, ISO 14024, EPEAT or other equivalent certifications.'~~
Justification: The requirements of the Directive (EU) 2024/825 focus on regulating the use of environmental claims in a business-to-consumer context. However, the draft Sustainable Consumption Law goes beyond this by inserting new prohibitions with regard to company or entity names: amendment of Art. 406 of Royal Decree	

1784/1996 to forbid the use of a company name that may “mislead or confuse commercial traffic as to the identity of the company or entity, its class or nature, or its environmental performance.” Directive 2024/825, as per its definition of ‘environmental claims', only addresses the use of'labels, brand names, company names or product names in the context of a commercial communication'. Thus, the introduction of this prohibition in the Sustainable Consumption Law introduces legal uncertainty, in particular for existing brand and company names, trademarks and trade names. It risks disharmony across the single market’s trademark rules, as a company’s branding or use of a sign allowed in other Member States could be refused or cancelled in Spain.