World Federation of Advertisers

September 2025

Submission of the World Federation of Advertisers (WFA) on the Bill aimed at reducing the environmental impact of the textile industry - Notification No. 2025/0336/FR

The World Federation of Advertisers (WFA) welcomes the opportunity to contribute to the TRIS notification triggered by the proposal for a new regulation aimed at reducing the environmental impact of the textile industry in France.

WFA is the voice of marketers worldwide, representing over 150 brands and 60 national advertiser associations. Over half of our members are European, and we support national advertiser associations in 20 EU Member States.

WFA is concerned that Articles 3 and 3bis of the proposed law may be inconsistent with several provisions of existing EU digital, consumer, and internal market legislation. The draft appears to impose a general and absolute prohibition on advertising and marketing related to the practices defined in the law. Furthermore, because the thresholds determining which operators and products are affected are to be set by decree under Article 1 and are not yet defined, brand advertisers face significant legal uncertainty regarding the law's scope.

The provisions in Articles 3 and 3bis risk creating significant legal and economic uncertainty for advertisers and media across France and the EU. Advertisers would face increased costs to adapt campaigns for the French market, while French and European media could suffer substantial revenue losses. Cross-border media services may be forced to withdraw from France, undermining media plurality and limiting consumer choice. Moreover, print and digital media from other Member States intended for distribution in France would need to modify advertising content to comply with French-specific requirements, incurring additional costs and potentially prompting publishers to exit the French market entirely. In addition to the proposed law's incompatibility with EU law, WFA encourages the Commission to carefully reflect on these potential impacts.

Article 3: Ban on advertising for products and brands caught by the definition set out in Article 1

Article 3 is contrary to the E-Commerce Directive 2000/31/EC. Case law of the Court of Justice of the European Union states that national measures regulating both physical and online advertising designed to drive consumers to a website should be assessed under the E-Commerce Directive (see C-517/23, *Apothekerkammer Nordrhein*; C-649/18, *A* — Advertising and sale of medicinal products online).

As per Article 2 and recital 18 of the Directive, advertising falls within the scope of information-society services. Under Article 3(2) of the Directive, '*Member States may not, for reasons falling within the coordinated field, restrict the freedom to provide information society services from another Member State.*' Derogations are possible only under the narrow conditions set out in Article 3(4) (e.g. public policy, protection of public health, public security, consumer protection), which are not fulfilled by the proposed law.

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In addition, the Directive permits Member States to take measures only in respect of a *given* information-society service (C-376/22, *Google*), not by means of general and abstract prohibitions applying to whole categories of services. Furthermore, measures that are notified to the Commission under this Directive are unenforceable (C-390/18, *Airbnb Ireland*).

Overall, even if restrictions on advertising were in principle justifiable, they could not legitimately take the form of a general and absolute prohibition of any form of online advertising.

Article 3 is contrary to the Unfair Commercial Practices Directive (UCPD) 2005/29/EC. According to Article 4, '*Member States shall neither restrict the freedom to provide services nor restrict the free movement of goods for reasons falling within the scope of this Directive*'. According to the UCPD's Article 3 (3), Member States may introduce restrictions and prohibitions of commercial practices '*on grounds of the health and safety of consumers in their territory wherever the trader is based, for example in relation to alcohol, tobacco or pharmaceuticals*'. However, this exception is not fulfilled by the proposed law, which justifies the ban on advertising on grounds '*that an excessive production of textiles undermines the protection of the environment and the fight against climate change*'. The proposed law therefore relies on an 'environmental' exception, which does not exist under the UCPD.

Article 3 is contrary to the Services Directive 2006/123/EC. Article 16 of the Services Directive guarantees the freedom to provide services and requires the Member State in which a service is provided to ensure free access to and free exercise of that service activity. Any national requirement restricting access to or the exercise of a service activity must be non-discriminatory, justified by an overriding public-interest reason (public policy, public security, public health or the protection of the environment), necessary and proportionate. Commercial communications (including offline advertising such as print, posters, leaflets, etc.) are addressed by the Directive and, where a national measure on offline advertising affects cross-border provision of services, it falls to be assessed under Article 16; general or absolute bans on advertising that impede providers' ability to make themselves known are likely to be disproportionate. In addition, Member States must notify the Commission of any new requirements of the kind listed in Article 16(2); the Commission will examine them and may request that the Member State refrain from adopting or abolish incompatible measures.

Article 3 is contrary to Articles 34 and 56 of the Treaty of the Functioning of the EU (TFEU). By extending the advertising ban beyond online formats, the proposed law constitutes both a restriction on the free circulation of goods, prohibited under Article 34 TFEU (for producers), and a restriction on the freedom to provide services, prohibited under Article 56 TFEU (for advertising companies).

Case law of the Court of Justice of the EU has long considered that a restriction on advertising has a direct effect on the trading of the product concerned: commercial communication is essential for customers' awareness; without it, they are deprived of the

possibility to compare products and will not be aware of new ones. In addition, the Court has established that measures imposing a general and absolute ban on advertising are manifestly disproportionate and exceed what is necessary to attain the objective pursued (see C-200/24, *Commission v Poland*). Accordingly, there are less restrictive measures to achieve objectives such as environmental protection, for example regulation of the content (and, if appropriate, the form or manner) of advertising, rather than a blanket prohibition.

Article 3 bis: Ban on influencer marketing for products and brands caught under Article 1

Article 3 bis introduces a specific ban on influencer marketing for products and brands covered under Article 1. By treating influencer activity differently from the general advertising restrictions set out in Article 3, this provision creates unequal treatment within promotional services. While all advertisers are subject to the general ban, influencers face additional, specific penalties. This differentiation risks discrimination between types of promoters for the same products and raises concerns regarding legal consistency and fairness.

Article 3 bis: Mandatory labelling in advertising for products caught under Article 1

Similarly to the ban on advertising, mandatory labelling is contrary to the UCPD, to the E-Commerce Directive, and to Articles 34 and 56 TFEU. The protection of the environment cannot justify a restriction to the freedom to provide services on the grounds of the UCPD, nor the E-Commerce Directive. Whilst Articles 34 and 56 TFEU allow for a restriction to the internal market on the grounds of the protection of the environment, mandatory labelling is not proportionate to achieve such an objective.

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