



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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DARK PATTERNS IN E-COMMERCE: ARE INDIAN CONSUMERS REALLY PROTECTED?

~ Trupti Hogade

Abstract

The rapid expansion of the field of e-commerce has influenced consumer behavior through convenience, access, and variety of goods and services available. Nevertheless, with the advent of online marketplaces, there emerged some dubious design strategies known as dark patterns. The application of dark patterns in consumer behavior entails misleading interfaces, which lead to acquisitions, registrations, or personal data transfers that were not necessarily intended by consumers. Realizing the potential threat of such practices to consumers, the country of India has taken some regulatory measures through the Consumer Protection Act of 2019 and the Guidelines for Prevention and Regulation of Dark Patterns in 2023. This paper focuses on the concept of dark patterns, their types, the legal measures regulating dark patterns in India, and the challenges associated with their enforcement. While it is suggested that the regulatory environment provides an adequate ground for protecting consumer autonomy, the problem can be effectively addressed through enhanced consumer awareness and strict enforcement procedures.

Keywords: Dark Patterns, E-Commerce, Consumer Protection, Consumer Rights, Digital Markets, CCPA.

I. Introduction

Digital transformation has led to drastic changes in the way customers interact with businesses. Digital commerce websites are an essential part of the consumer's everyday life, which helps consumers purchase products and services easily. With the increasing usage of smartphones, the internet, and other digital payment modes, online shopping in India is expanding.¹ While all these developments have helped customers, they have also provided businesses with advanced ways to influence customer decisions.

One method is based on what is termed as “dark patterns,” which is an expression used to describe tricks through web interfaces that trick people into doing things they didn't intend to do. Unlike

¹ Consumer Protection Act, No. 35 of 2019, India Code (2019).

deceptive ads, dark patterns are part of the design of sites or apps. This is because they exploit psychological flaws, create fake urgency, and conceal important information.²

Dark patterns' wide adoption has led to many concerns about consumer autonomy, integrity, and fair trade practices. Many times consumers remain unaware that their decisions have been manipulated through these deliberately crafted interfaces. The increasing popularity of online dealings makes it even more important to ensure protection from such tactics through sound legal frameworks.³

This problem has been taken care of in India by way of the Consumer Protection Act, 2019, the Consumer Protection (E-Commerce) Rules, 2020, and the 2023 Guidelines for Prevention and Regulation of Dark Patterns. All such measures try to ensure that there is clarity on these matters and consumers are safe from any online tricks. However, doubts remain regarding whether the protection is adequate enough and whether enforcement mechanisms are effective. This paper attempts to shed light on dark patterns, their legal framework, and whether Indian consumers are adequately protected against them.

II. Understanding Dark Patterns and Their Common Forms

A. Meaning and Evolution of Dark Patterns

Dark patterns were conceived because of concerns surrounding deceptive digital design approaches. The term was coined by user experience designer Harry Brignull, who used it to describe interface designs that intentionally persuade people to make choices that they wouldn't normally make⁴. Unlike the regular types of consumer deception, dark patterns often involve a design aspect which makes their detection by consumers difficult.

The concept of dark patterns works based on using biases and limitations inherent in people's behavior. Rather than presenting objective information to the consumer, the design manipulates decisions through psychological manipulation or information masking, leading to confusion among others.⁵ Dark patterns are mainly designed to increase sales, collect consumer information, push subscriptions, or keep consumers involved. Studies have indicated that such approaches undermine consumer independence and distort consumer choices.

Recognizing the increasing prevalence of these practices, the Central Consumer Protection Authority (CCPA) initiated the Guidelines for the Prevention and Regulation of Dark Patterns, 2023.⁶ As per these guidelines, dark patterns can be described as misleading methods of user interface/experience that are used to manipulate consumers into taking decisions or actions contrary to their initial intentions. This, in turn, impedes the decision-making ability of the consumers.⁷

B. Why Dark Patterns Pose a Threat to Consumers

Dark patterns raise concerns since they affect informed consent and consumer autonomy. Ideally, in a competitive marketplace, consumers should make decisions based on factual information and actual needs. However, rather than persuading people using the qualities of products, organizations use certain design tactics that can manipulate users through design features. This leads to an imbalance in power between organizations and consumers. In most cases, organizations possess valuable information about

² Harry Brignull, *Dark Patterns*, DARK PATTERNS, <https://www.darkpatterns.org> (last visited June 9, 2026).

³ Ministry of Electronics & Information Technology, *India's Digital Economy Report* (2024).

⁴ Harry Brignull, *supra* note 2.

⁵ Arunesh Mathur et al., *Dark Patterns at Scale: Findings from a Crawl of 11K Shopping Websites* (2019).

⁶ *Guidelines for Prevention and Regulation of Dark Patterns, 2023*, Central Consumer Protection Authority, Ministry of Consumer Affairs, Government of India.

⁷ Organisation for Economic Co-operation and Development (OECD), *Dark Commercial Patterns* 12–15 (2022).

consumer behavior and employ efficient design principles to impact decision-making processes. Consumers, on their part, may not have sufficient knowledge about design tricks and may, thus, end up losing money, getting into unnecessary subscriptions, and sharing their personal information.

Moreover, dark patterns undermine trust in online markets. Trust is key in expanding the e-commerce space, and deceptive practices may discourage people from engaging in online shopping. Therefore, regulation of dark patterns is not only necessary for protecting consumers but also a vital component of promoting balanced online commerce.

C. Common Types of Dark Patterns in E-Commerce

1. False Urgency

False Urgency is a situation where the platform makes the user experience artificial urgency or pressure that compels him or her to act quickly.⁸ An example would be phrases such as “Only Two Left” and “Sale Ends in Five Minutes.” According to the CCPA Guidelines, the false urgency practice is a prohibited dark pattern because it pushes the consumer to purchase an item immediately.⁹

2. Basket Sneaking

Basket Sneaking entails the activity of adding extra products or services into the customer’s basket without prior consent.¹⁰ This addition increases the final bill and can be realized only when the consumer reaches the payment stage. According to CCPA Guidelines, such an action is misleading since it impacts the buyer’s purchase decision-making process.¹¹

3. Drip Pricing

Drip pricing occurs where there is an initial offer of a seemingly attractive price, yet the details of the essential costs are revealed much later on in the purchasing process.¹² Despite the fact that consumers can be lured by a good into believing that it costs less, it is true that the price of the item often turns out to be very different from what was promised.¹³

4. Subscription Traps

A subscription trap is designed to allow for the creation of subscriptions but make the cancelling of subscriptions difficult.¹⁴ The customer may have to deal with a complicated cancellation process or an obscured option for opting out, or be constantly reminded about their subscription so that they do not cancel.¹⁵

5. Confirm Shaming

The term confirm shaming means the use of statements intended to evoke sensations such as guilt, shame, and anxiety in order to force customers who reject a proposal to reconsider their decision. Such techniques rely on the exploitation of emotions to push customers into taking decisions they would otherwise have rejected.¹⁶

⁸ Colin M. Gray et al., *The Dark (Patterns) Side of UX Design*, in *Proceedings of the CHI Conference on Human Factors in Computing Systems* (2018).

⁹ *Guidelines for Prevention and Regulation of Dark Patterns*, 2023, Annex. I (False Urgency).

¹⁰ *Id.* Annex. I (Basket Sneaking).

¹¹ *Federal Trade Commission, Bringing Dark Patterns to Light: An FTC Workshop* (2022).

¹² *Guidelines for Prevention and Regulation of Dark Patterns*, 2023, Annex. I (Drip Pricing).

¹³ *OECD, Consumer Policy Toolkit* (2018).

¹⁴ *Guidelines for Prevention and Regulation of Dark Patterns*, 2023, Annex. I (Subscription Trap).

¹⁵ *Federal Trade Commission, Negative Option Rule and Subscription Practices* (2023).

¹⁶ *Guidelines for Prevention and Regulation of Dark Patterns*, 2023, Annex. I (Confirm Shaming).

Their frequent occurrence indicates that dark patterns are not just random incidents, but rather part of a strategy employed by those using online platforms. Such high levels of usage have revealed the need for effective regulation and consumer education programs.

III. Legal Framework Governing Dark Patterns in India

The growing prevalence of dark patterns has prompted regulators across the world to develop legal systems meant to protect consumers from online deceit. Protection of consumers from the risks of dark patterns in India is governed by a combination of statutes, e-commerce regulations, and special guidelines issued by regulatory authorities. While India does not have any dedicated law concerning dark patterns, the present legal system provides sufficient protections from online deceit.

A. Consumer Protection Act, 2019

Consumer Protection Act, 2019 serves as the base for consumer protection laws in India.¹⁷ It was set up with the aim of ensuring effective and efficient handling and settlement of consumer disputes, taking into consideration the complexities of the consumer market.

Consumer rights have been addressed through the act, including consumer right to be informed of quality, quantity, strength, purity, standards, and price. Consumers have also been protected against deceptive advertisements and market practices. These protections are particularly relevant for dark patterns since many misleading user interfaces include misleading presentations or conceal information that is relevant.¹⁸

The creation of the Central Consumer Protection Authority was a major step in ensuring the safety of consumers. This body has been empowered to investigate any violation of consumer rights as well as any misleading market practice. The Central Consumer Protection Authority represents a major step forward in the area of consumer protection in India.¹⁹

B. Consumer Protection (E-Commerce) Rules, 2020

Because of the rapid emergence of e-commerce, the government passed Consumer Protection (E-Commerce) Rules, 2020 to address problems that were associated with e-commerce platforms. These rules apply to those operating in the e-commerce space and include many obligations for these entities.²⁰

These Regulations require e-commerce enterprises to provide specific information about the products and services, their return policy, how refunds can be received, and dispute resolution procedures. Any form of deceitful marketing and advertising practices are outlawed, and consumers must have access to adequate information for making informed decisions.

The relevance of these Rules lies in the recognition of the existence of different risks in online dealings compared to traditional trading activities. By introducing disclosure norms and promoting transparency, the Rules are indirectly dealing with multiple dark pattern practices, particularly hidden charges, misrepresentations, and marketing tactics.

¹⁷ *Consumer Protection Act, No. 35 of 2019, India Code (2019).*

¹⁸ *Consumer Protection Act, 2019, § 2(47) (India).*

¹⁹ *Consumer Protection Act, 2019, §§ 10–18 (India).*

²⁰ *Consumer Protection (E-Commerce) Rules, 2020, Gazette of India, Extraordinary, Part II, § 3(ii).*

C. Guidelines for Prevention and Regulation of Dark Patterns, 2023

One important step forward in regulation was taken when the Guidelines for Prevention and Regulation of Dark Patterns, issued by the Central Consumer Protection Authority, came into existence in 2023.²¹ The Guidelines constitute the first regulatory response to dark patterns from India.

The Guidelines apply broadly to all platforms, advertisers, and sellers operating in India. The Guidelines recognize and prohibit multiple forms of manipulative conduct, such as creating false urgency, deceptive additions, incremental pricing, subscription traps, disguised ads, constant reminders, interface manipulation, and confirmation shaming.

One of the major strengths of the Guidelines is their provision of precise definitions and examples of the kinds of manipulative behavior to be banned. The Guidelines remove the guesswork by specifying certain forms of manipulative practices, providing clearer guidelines for companies. At the same time, they empower regulators to take action against companies engaging in manipulative conduct.

Lastly, the Guidelines reflect the shift in consumer protection policies. Traditional consumer laws have typically focused on false advertising and defective products. However, the Guidelines acknowledge that consumers might also be exploited through digital design and manipulation. This recognition is particularly important in an era when corporate power can operate more easily through digital design and algorithms rather than deception alone.

D. Comparative International Approaches

Dark patterns are not unique to India; there are many places that recognize the need to deal with manipulative behavior on the internet.²²

In Europe, the European Union has included provisions protecting against deceptive practices on the internet through policies such as the Digital Services Act and consumer protection directives.²³ Similarly, regulatory authorities in America have increasingly focused on dark patterns concerning consumer protection laws and data privacy.

The emerging trends in the world reflect a mounting consensus among nations regarding the existence of considerable risks associated with deceptive user interfaces. This is reflected in the Indian regulatory environment with the issuance of the 2023 Guidelines. It can be considered as another step towards modernizing consumer protection laws.

IV. Challenges in Enforcement

Even though there exists an extensive legal framework that can be used to address the issue, there are several hindrances that are present that may make it difficult for the regulation of dark patterns.²⁴

One of the main hindrances present is the lack of knowledge about dark patterns on the part of the consumers. There exist many individuals who are still ignorant about dark patterns and hence do not realize when they are subjected to them. This leads to most cases of deception remaining undisclosed.

Another problem that arises is the dynamic aspect of technological changes. Businesses constantly find new ways to influence the consumer's behavior, surpassing the pace of legislation that has been put in place.

²¹ *Guidelines for Prevention and Regulation of Dark Patterns, 2023, Central Consumer Protection Authority.*

²² *Organisation for Economic Co-operation and Development (OECD), Dark Commercial Patterns (2022).*

²³ *European Commission, Guidance on the Interpretation and Application of Directive 2005/29/EC on Unfair Commercial Practices (2021).*

²⁴ *Arunesh Mathur et al., Dark Patterns at Scale: Findings from a Crawl of 11K Shopping Websites (2019).*

In addition, there are difficulties faced by regulatory authorities when trying to monitor many websites and other digital platforms operating within different sectors. Detection of such manipulation often requires expertise as well as considerable resources. Studies conducted regarding online marketplaces have revealed that dark patterns continue to thrive despite growing regulations against them.

Clearly, these barriers reveal the insufficiency of relying only on legal norms for such protection. It requires a combination of regulation, technical expertise, industry compliance, and awareness among people.

V. Recommendations

India has seen some major progress toward addressing dark patterns using legislation, but there is still need for further reform to ensure that consumers are sufficiently protected in the online economy.

A. Strengthening Consumer Awareness

The most effective method of combating such dark patterns would be increasing consumer awareness. There are many consumers who are unaware of any kind of manipulative design strategies and therefore fail to recognize that they are falling for any tricks. Governments, educational institutes, and consumer organizations should conduct awareness programs to educate people about common dark patterns and their available legal remedies.

Awareness campaigns about misleading tactics used on the internet need to be held so that consumers can make educated decisions while visiting online e-commerce websites. Awareness campaigns will benefit not only the consumers but also the companies.

B. Enhanced Regulatory Enforcement

Although the CCPA is an instrument that carries immense power, its effective enforcement depends upon continuous monitoring and investigations. The regulatory authorities need to come up with certain technological interventions that can detect such patterns in any type of online platform.

Auditing of major websites dealing in e-commerce may help identify violations even before serious damage is done to consumers. Furthermore, imposition of strict penalties on those who violate again and again can improve compliance with the law.

C. Promoting Ethical Design Standards

It is essential for businesses to have an incentive to adopt ethics in designing products through transparency and consumer welfare. Trade organizations have a vital role to play in this context through the establishment of voluntary guidelines that prevent any sort of dishonesty and foster healthy digital interactions.

The standards set for ethics in product design need to include clear disclosure, transparent pricing models, easy cancellations, and considerable consumer agreement.

D. International Cooperation and Best Practices

Taking into consideration the international nature of digital trade, India should continue to work with various international organizations in sharing their approaches to dealing with dark patterns. Approaches to regulation adopted by countries such as those in the European Union and the United States would be beneficial in ensuring that consumers' rights evolve along with technology.

VI. Conclusion

Rapid developments within e-commerce have brought significant change in consumers' experience through unparalleled levels of convenience and accessibility. The emergence of deceptive interface

designs has made the impact of digitalization even more apparent, with dark patterns being an example of such deception.

Digital marketing strategies used by businesses pose great threats to consumer autonomy, transparency, and healthy competition. Strategies including the use of false urgency, basket sneaking, drip pricing, subscription scams, and confirmation shaming are all examples of digital manipulation of consumer decision-making which could go against the consumers' best interest.

Preventive action has been taken in India in the form of the Consumer Protection Act, 2019, the Consumer Protection (E-Commerce) Rules, 2020, and Guidelines for Preventing and Regulating Dark Patterns, 2023. Together, these regulations create a powerful legislative arsenal against misleading conduct.

Nonetheless, the regulation of consumers' interests is not enough for ensuring appropriate consumer protection. In addition to this, one should focus on proper implementation, technical skills, consumer awareness, and business ethics. Given the growing dynamics of online trade, regulation should be proactive when coping with manipulation techniques.

In general, the success of the Indian regulatory framework will be measured in terms of how well it can strike a balance between innovation and consumer welfare. India is able to develop such a digital market where economic development and consumer confidence go hand in hand.