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## **DARK PATTERNS IN E-COMMERCE: ARE INDIAN CONSUMERS ADEQUATELY PROTECTED UNDER THE CONSUMER PROTECTION ACT, 2019?**

**MAHI JINDAL**

Picture this: you're ordering food online. You click "Proceed to Payment" only to realize that a convenience fee has been added at the last moment. Or you're booking flight tickets when a bright red message pops up saying, "Only 2 seats left!" Panic sets in, and you complete the payment without thinking twice. For many online shoppers, these experiences have become surprisingly common. In the digital world, these tactics are known as dark patterns-deceptive design practices that influence or manipulate consumers into making decisions they might not have made if presented with clear and transparent choices<sup>1</sup>. As online shopping becomes a part of our everyday lives, an important question arises: are Indian consumers truly protected from these manipulative practices under the existing legal framework?

To understand why these practices are problematic, it is first important to understand what "dark patterns" are. These patterns are interface designs that are used to manipulate customers into making a choice that is beneficial for the company<sup>2</sup>. It is quite different from regulating marketing strategy because it uses unfair practices, dishonest marketing, confusion and psychological pressure leading to uninformed decisions. This is the main reason why these patterns are termed as "dark". Businesses might use these strategies to increase sales, increase profits and market their brand at a higher level. Businesses often use these techniques to maximize sales, profits, encourage subscriptions or reduce cancellation. Have you ever witnessed a notification saying that the product that has been in the cart is almost out of sale or "only 2 products left" such messages create a false sense of urgency. This practice is commonly known as "false urgency"<sup>3</sup>. It is done to falsely exploit or influence consumer's decision. Although these techniques seem harmless at first they can

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<sup>1</sup> Harry Brignull, *Dark Patterns*, <https://www.deceptive.design>

<sup>2</sup> Guidelines for prevention and Regulation of Dark Patterns, Central Consumer Protection Authority (Nov.30,2023)

<sup>3</sup> *Id.*(False Urgency)

significantly affect consumer's ability to think and react and even devoid them of personal choice and information . This raises an important legal and ethical concern which is quite important to be taken care of.

While these practices may help businesses achieve higher sales, they often come at the expense of consumer autonomy and informed decision making. When a user visits an e-commerce, they may be required to create an account or provide information that is unnecessary in order to avail certain features or completing the purchase. This trade practice is often called forced action where consumers are compelled to give their personal information which is unrelated for a particular transaction. There are times where consumer's often view the bill receipt multiple times wondering the source of the additional cost, was it the high delivery charge or the convenience fee, completely unaware to the fact that there were hidden costs attached to the bill which was revealed at the point of checkout. Consumers are easily manipulated to the extent that they do not even question the reason behind the additional costs and are ready to pay all of it. This technique lets consumers spend more than they had intended to leading to financial burden. Notifications saying "LIMITED TIME OFFER" generate a fear of missing out (FOMO) encouraging consumers to make impulsive decisions without carefully evaluating their options. Due to these unethical business practices consumers lose trust over time. given the growing influence of these practices on consumer behavior, the need for a strong legal framework to regulate them has become more important than ever.

Recognizing the growing impact of such deceptive practices, India has gradually strengthened its consumer protection framework to safeguard the rights of online customers. Although dark patterns are relatively recent concerns , existing consumer laws and regulatory measures work together to address these practices. The Consumer Protection Act,2019 serves as the primary legislation aimed at safeguarding the interests of consumers against unfair trade practices, unethical and misleading advertisements in the market<sup>4</sup>. It also established the central Consumer Protection Authority (CCPA) empowering it to investigate and take action against the unlawful strategies<sup>5</sup>. in the digital world there is a rapid growth of online shopping, so the consumer protection (E-commerce ) rules 2020 were introduced<sup>6</sup>. These rules focused more on transparency, accurate information and ensuring stronger grievance redressal mechanism. These rules protects shoppers from online fraud ,making the market place accountable to consumers. To specifically address the manipulative digital

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<sup>4</sup> Consumer Protection Act, No.35 of 2019, 2(9),2(47), India

<sup>5</sup> Consumer Protection Act, No.35 of 2019, ch III, India

<sup>6</sup> Consumer Protection (E-Commerce) Rules, 2020, G.S.R.462(E), July 2020, India

practices the CCPA introduced the guidelines for prevention and regulation for dark patterns, 2023<sup>7</sup>. These guidelines identify and prohibit several deceptive patterns such as false urgency, subscription traps, forced action, basket sneaking and other manipulative interface designs<sup>8</sup>. This marked an important step towards protecting consumers freedom of choice in the digital market place. Together these legal measures demonstrates India's commitment to protecting consumer rights in the digital market, however the legislation alone is not adequate the true effectiveness of these laws depends upon the consistent implementation and consumer awareness.

Although India's legal framework provides significant protection against deceptive online practices, addressing dark patterns in practice remains a challenging task. Despite the existing acts and regulations consumer awareness remains low. Many consumers fail to recognize these manipulative practices resulting in the underreporting of such incidents. Laws on paper alone are not sufficient. Consumers must also understand their rights and the remedies available to them. Although the consumer protection rules focus on transparency and accountability dark patterns continue to influence consumer behavior in subtle ways. Businesses should adopt and follow the ethical practices and prioritizes transparency as maintaining consumer trust is essential for their long term reputation. The intent of the business should complement the needs of the customers and not their personal gain. Due to the rapid evolution in the digital economy new dark patterns continue to emerge, this makes it increasingly difficult to determine when persuasive marketing crosses the line into unlawful manipulation. Another challenge is the difficulty of consistently monitoring compliance across thousands of digital platforms. Monitoring thousands of websites is difficult and therefore CCPA should be equipped with adequate financial and technical resources to effectively enforce these regulations. Consumer awareness campaigns and public feedback should be strengthened to encourage the reporting of unfair practices<sup>9</sup>. Ultimately businesses must embrace transparency and ethical practices to build lasting consumer's trust in the digital market place.

While India's legal framework provides a strong foundation for protecting consumers against dark patterns, legislation alone cannot completely eliminate deceptive online practices. As the digital economy continues to evolve, the legal framework must evolve alongside it to effectively address new forms of manipulation and safeguard consumer rights. A fair digital marketplace requires more

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<sup>7</sup> *Guidelines for Prevention and Regulation of Dark Patterns*, Central Consumer Protection Authority (Nov.30,2023)

<sup>8</sup> *Id.*

<sup>9</sup> Consumer Protection Act, No.35 of 2019; Consumer Protection Act(E-Commerce) Rules,2020

than just laws-it requires responsible businesses, informed consumers, and regulators committed to ensuring transparency and accountability. Ultimately, the success of e-commerce should not be measured solely by business growth or increased sales, but by the trust, transparency, and freedom of choice it offers to consumers. After all, one person's gain should never come at the cost of another's loss.