Dark Pattern

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Why is in news? Department of Consumer Affairs urges online platforms to refrain from adopting 'dark patterns' harming consumer interest

The Department of Consumer Affairs, Government of India has urged online platforms to refrain from incorporating any design or pattern in the online interface of their platform that may deceive or manipulate consumer choice and fall in the category of dark patterns.

In a letter addressed to major online platforms in India, the Department of Consumer Affairs has **strongly advised online platform to not engage in 'unfair trade practices'** by incorporating dark patterns in their online interface to manipulate consumer choice and **violate 'consumer rights'** as enshrined **under Section 2(9) of the Consumer Protection Act, 2019.**

Dark Pattern:

It is a user interface that has been **crafted to trick or manipulate users into making choices** that are detrimental to their interests.

The term **'Dark Patterns' was coined by** user experience designer **Harry Brignull in 2010**.

Dark patterns **endanger the experience of internet users** and make them more vulnerable to financial and data exploitation by BigTech firms.

Dark patterns confuse users, introduce online obstacles, make simple tasks time-consuming, have users sign up for unwanted services or products and force them to pay more money or share more personal information than they intended.

In the U.S., the Federal Trade Commission (FTC) has taken note of dark patterns and the risks they pose. In a report released in September, 2022, the regulatory body listed over 30 dark patterns.

The FTC report outlined its legal action against Amazon in 2014, for a supposedly free children's app that fooled its young users into making in-app purchases that their parents had to pay later for.

Global regulations:

Recently, regulators in other jurisdictions such as **European Union, USA and UK** have taken action against dark patterns involving unfair and deceptive practices in online interfaces which were found to be detrimental to consumers. The activities which the platforms were observed to be indulging include:-

Non-consensual enrolment in subscription programs (USA)

Pressure selling using misleading countdown clock (UK)

Secretly saving credit card information and charging users without consent (USA)

Putting in place a cancellation process designed to deter consumers from opting out of subscription (Norway).

Types of dark patterns:

In India, The **Advertising Standards Council of India** (ASCI) has recognised **four dark patterns** and these are the proposed areas of extension to the ASCI code on misleading ads.

Drip pricing: It is a pattern when the **total price is only revealed at the very end of the buying process**.

Bait and switch: It is a pattern that occurs when a **user takes an action expecting one outcome**, but **instead is served an outcome they didn't want.** This involves advertising one product or service but delivering another, often of lower quality.

False urgency: It is a dark pattern that refers to **misleading information on quantities** of a particular product.

Disguised advertising: It is a pattern when an **advertisement mimics editorial content**, that is, designed to look like other types of content, such as news articles or user-generated content.

Some examples of Dark Patterns:

Basket Sneaking: Websites or apps use dark patterns to add additional products or services to the shopping cart without user consent.

Subscription Traps: This tactic makes it easy for consumers to sign up for a service but difficult for them to cancel it, often by hiding the cancellation option or requiring multiple steps.

Confirm Shaming: It involves guilt as a way to make consumers adhere. It criticizes or attack consumers for not conforming to a particular belief or viewpoint.

Forced Action: This involves forcing consumers into taking an action they may not want to take, such as signing up for a service in order to access content.

Nagging: It refers to persistent, repetitive and annoyingly constant criticism, complaints, requests for action.

Interface Interference: This tactic involves making it difficult for consumers to take certain actions, such as canceling a subscription or deleting an account.

Hidden Costs: This tactic involves hiding additional costs from consumers until they are already committed to making a purchase.

With growing penetration of internet and rising smartphone usage in India, consumers are increasingly choosing e-commerce as the preferred mode of shopping. In such a scenario, it is essential that online platforms do not indulge in unfair trade practices by incorporating dark patterns which result in a harmful or undesirable outcome for the consumer.

Consumers can report instances of 'dark patters' or provide feedback and report such manipulative online practices on the National Consumer Helpline (NCH) by calling '1915' or through Whatsapp on 8800001915.

Internet users who are able to identify and recognise dark patterns in their daily lives can **choose more user-friendly platforms** that will respect their right to choose and privacy.