



Dark Patterns and the Illusion of Consent: Exploiting Legal Loopholes in Digital Media

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ABSTRACT

This paper explores how digital platforms use “dark patterns,” which are design tricks that influence users to make choices they might not fully understand. These patterns are commonly seen in cookie consent forms, subscription sign-ups and privacy settings. Although it might look like most web pages are legally compliant, they are frequently worded in a way that is challenging to understand, pre-set to make a specific choice or have concealed features that lead users to consent without fully knowing what they are agreeing to do. The study explains how these practices create an illusion of consent; the users are technically consenting but are not actually informed. It points out how the existing legislations put more emphasis on formal assent over making sure users make their decisions. Due to this loophole, companies are able to make their interfaces legally acceptable but ethically dubious. Further, the paper analyses various instances of dark patterns and their impact on user actions. It demonstrates that numerous users are inclined to make immediate choices under the pressure of time, misunderstanding or unclear information. This prompts the question of whether consent in the cyberspace is truly voluntary. The paper concludes by advocating for improved regulatory standards and better design practices to enhance transparency and usability. It highlights the need to establish clear communication, balanced interface and enhanced enforcement systems to make sure that the users can make informed decisions and gain real control over their online interactions. It further emphasizes the importance of holding digital platforms accountable for manipulative practices that undermine genuine user consent.

KEYWORDS

*Dark Patterns, Illusion of Consent, Data Protection, Privacy,
Digital Platforms*

INTRODUCTION

The term ‘dark patterns’ was first coined by Harry Brignull in 2010. He used it on his website DarkPatterns.org to describe deceptive design practices used in digital interfaces. Dark patterns or deceptive design patterns are design strategies in user interfaces that influence users decisions concerning the use of their financial resources, of their personal

data and of their time through manipulation, coercion or deception.¹ These practices are commonly observed in cookie consent banners, subscription models and privacy settings, where users are guided toward particular choices without fully understanding the implications.

The development of digital media has changed the way people communicate, receive information and use services in their daily lives. From social networking platforms to online shopping and mobile applications, users are constantly required to share personal data. In this digital environment, consent has become one of the most significant legal bases in terms of which such data collection and processing is to be conducted. Data protection laws presume that people can make free and informed decisions about their personal data. In reality, however, this assumption is becoming more and more disputed.

These types of practices cast doubts on the legitimacy of consent within the digital context. Although it may seem that most platforms do not violate the legal requirements, they usually use methods like the pre-selected options, deceptive language or concealed settings to get the user to agree to the terms. It becomes especially important with references to the frameworks like the Digital Personal Data Protection Act, 2023², according to which consent must be free, informed, specific and unambiguous. Additionally, the introduction of privacy as a fundamental right in *Justice K.S. Puttaswamy v. Union of India*³ serves to further strengthen the role of autonomy and control of personal information.

This paper contends that the growing use of dark patterns leads to an “illusion of consent,” where users appear to agree to data practices without truly understanding or intending to do so. It analyses the ways that these practices take advantage of legal loopholes and compromise the usefulness of consent-based data protection models. The study also highlights the need to have improved regulation frameworks and design practices to enable transparency, accountability and meaningful use choice in the digital public space.

RESEARCH PROBLEM

The development of online platforms has made user consent a key principle in data protection and privacy legislation. Nevertheless, the widespread deployment of dark patterns, which are design strategies

¹ Arianna Rossi et al., *Who Is Vulnerable to Deceptive Design Patterns? A Transdisciplinary Perspective on the Multi-Dimensional Nature of Digital Vulnerability*, 55 *Comput. L. & Sec. Rev.* 106031 (2024).

² *Digital Personal Data Protection Act, 2023*, No. 22 of 2023, INDIA CODE (2023).

³ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India).

intentionally crafted to manipulate, mislead or coerce users has raised significant concerns regarding the substantive validity of such consent. Even though the users are supposed to consent to the data collection, the subscription or any other interaction of digital nature, their choices are often influenced by misleading interface design and not by critical thinking.

Such an illusion of consent creates a false sense of agreement, thus compromising the principles underlying statutory rules like the Digital Personal Data Protection Act, 2023 and international laws such as the General Data Protection Regulation.⁴ Although these legal protections exist, digital platforms tend to take advantage of legal loopholes and legal gaps to pursue activities that do not fully involve actual user consent.

Accordingly, the research problem concerns the need to critically examine how dark patterns subvert the legal and ethical foundations of consent, the extent of their impact on user decision-making and the measures necessary to enhance the effectiveness of consent-based data protection mechanisms. The inability to overcome this issue can keep exposing users to manipulation and exploitation within the digital community, thus undermining the protective purposes of the current privacy policies.

RESEARCH OBJECTIVES

1. To examine how dark patterns manipulate user decisions and create an illusion of consent in digital environments.
2. To analyze the legal and ethical implications of dark patterns and propose measures to enhance transparency, accountability and genuine user autonomy.
3. To evaluate user experiences related to unwanted subscriptions, difficulty in cancellation and misleading online interactions.

METHODOLOGY

This study adopts a mixed-method approach, combining doctrinal legal analysis with empirical research to examine dark patterns and their impact on user consent.

1. Doctrinal Analysis: Relevant legal frameworks, including the Digital Personal Data Protection Act, 2023, GDPR and judicial pronouncements such as Justice K.S. Puttaswamy v. Union of India

⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation), 2016 O.J. (L 119) 1.

(2017), were examined to identify gaps and loopholes in existing consent mechanisms.

2. Empirical Study: A survey was conducted with 25 respondents selected through purposive sampling to target users who regularly interact with digital platforms. The survey assessed user awareness, experiences and perceptions regarding dark patterns, providing insights into how interface design influences decision-making and the extent to which users recognize manipulative practices.
3. Analysis: Findings from the doctrinal and empirical components were integrated to evaluate the illusion of consent, its legal and ethical implications and potential measures to enhance transparency and user autonomy.

This methodology ensures that the study is both academically rigorous and grounded in real-world user experiences.

ARGUMENTS AND ANALYSIS

1. Shaping User Decision Making: Dark Patterns and the Illusion of Consent

Digital environments are increasingly structured in ways that influence and direct user behavior through carefully designed interface elements. Dark patterns, as a form of manipulative design, play a significant role in shaping user decision making by subtly guiding users toward outcomes that benefit digital platforms.⁵ These design strategies operate by exploiting cognitive biases, limiting the visibility of alternatives and increasing the effort required to opt out of certain choices. As a result, users are often steered toward consenting to data collection, subscriptions or other platform-driven objectives without engaging in a fully conscious or informed decision-making process.

One of the most common mechanisms through which dark patterns influence users is the use of default settings and pre-selected options. Users tend to accept default configurations due to convenience and time constraints, a phenomenon widely recognized in behavioural studies. Similarly, consent interfaces are often designed with unequal emphasis, where the option to accept is made more prominent through visual cues such as color, size or placement, while the option to decline is less visible or requires additional steps.⁶ Such asymmetrical design structures create a biased decision-making environment, effectively reducing the user's ability to exercise genuine choice.

Another significant technique involves the use of complex or ambiguous

⁵ Arunesh Mathur et al., *Dark Patterns at Scale: Findings from a Crawl of 11K Shopping Websites*, Proc. ACM Hum.-Comput. Interact. (CSCW) (2019).

⁶ Colin M. Gray et al., *The Dark (Patterns) Side of UX Design*, Proc. SIGCHI Conf. (2018).

language in privacy policies and consent forms. Legal and technical jargon, combined with lengthy and poorly structured text, discourages users from carefully reviewing the terms presented to them. In many cases, users are compelled to provide consent simply to access a service, leading to what may be described as “forced consent.” This raises concerns regarding the voluntariness of such consent, as users are left with little practical alternative but to agree.

The legal understanding of consent requires that it be free, informed, specific and unambiguous. This standard has been recognized in multiple jurisdictions. In *Justice K.S. Puttaswamy v. Union of India*, the Supreme Court of India emphasized that informational privacy is a core aspect of the right to life and personal liberty, thereby requiring meaningful and informed consent for the use of personal data. However, where consent is obtained through manipulative interface design, these legal standards are significantly diluted. Users may technically provide consent, but such consent lacks the essential elements of awareness and intention.

Similarly, under the General Data Protection Regulation, consent must be given through a clear affirmative act and cannot be inferred from silence or pre-selected options. The decision in *Planet49 GmbH v Bundesverband der Verbraucherzentralen und Verbraucherverbände*⁷ further clarified that pre-selected checkboxes do not constitute valid consent. Despite these legal safeguards, digital platforms continue to design interfaces that subtly influence user choices while maintaining formal compliance with regulatory requirements.

The empirical component of this study further highlights the practical impact of such design practices. A majority of respondents indicated that they tend to accept cookies or terms and conditions without fully reading them, primarily due to time constraints, lack of clarity or interface complexity. This demonstrates that user behaviour is significantly shaped by the design of digital interfaces rather than by deliberate and informed choice.

In this context, the concept of the “illusion of consent” becomes particularly relevant. While users appear to exercise choice by clicking on consent options, the surrounding design environment restricts meaningful engagement with the information provided. Consent, therefore, exists more as a procedural formality than as a reflection of genuine autonomy. This not only undermines the effectiveness of consent-based data protection models but also raises broader concerns

⁷ *Bundesverband der Verbraucherzentralen und Verbraucherverbände v. Planet49 GmbH*, Case C-673/17, EU:C:2019:801 (C.J.E.U.).

regarding the legitimacy of digital governance mechanisms that rely heavily on user agreement.

Accordingly, it is essential to reconsider the assumption that consent obtained in digital environments is inherently valid. Greater emphasis must be placed on the quality of consent, including the clarity of information, equality of choices and absence of manipulative design elements. Without such considerations, the increasing reliance on consent as a legal basis for data processing risks becoming ineffective in protecting user rights in the digital age.

2. Legal and Ethical Implications of Dark Patterns in Digital Environments

The increasing use of dark patterns in digital platforms raises significant legal and ethical concerns, particularly in relation to data protection, privacy and user autonomy. While contemporary legal frameworks recognize consent as a primary basis for data processing, they often fail to adequately regulate the manner in which such consent is obtained. This gap enables digital platforms to employ manipulative design strategies while maintaining formal compliance with regulatory requirements.

From a legal perspective, major data protection regimes impose strict standards for valid consent. The Digital Personal Data Protection Act, 2023 requires that consent be free, specific, informed and unconditional under Section 6.⁸ Similarly, the General Data Protection Regulation mandates that consent must be freely given, specific, informed and unambiguous, as provided under Article 4(11) and Article 7.⁹ Despite these requirements, the emphasis remains on the formal existence of consent rather than the quality of the decision-making process.

Judicial pronouncements have attempted to strengthen the concept of meaningful consent. In *Justice K.S. Puttaswamy v. Union of India*, the Supreme Court of India recognized privacy as a fundamental right and highlighted the importance of informed consent in protecting informational privacy. Similarly, in *Planet49 GmbH v Bundesverband der Verbraucherzentralen und Verbraucherverbände*, the Court of Justice of the European Union held that consent obtained through pre-selected checkboxes does not satisfy the requirement of valid consent under EU law. These decisions indicate a judicial shift towards recognizing the qualitative aspects of consent.

⁸ Digital Personal Data Protection Act, 2023, § 6 (India),

⁹ General Data Protection Regulation, Regulation (EU) 2016/679, arts. 4(11), 7, 2016 O.J. (L 119) 1.

However, a significant limitation persists in the absence of specific regulation addressing deceptive interface design. Existing laws are primarily concerned with data collection and processing, rather than the design of user interfaces through which consent is obtained. This regulatory gap allows digital platforms to structure interfaces in ways that influence user behaviour while remaining within the boundaries of legal compliance. In the Indian context, competition law has also begun to address concerns relating to digital dominance and user manipulation. For instance, *Central Inland Water Transport Corp. Ltd. v. Brojo Nath Ganguly*¹⁰ and *Life Insurance Corporation of India v. Consumer Education & Research Centre*¹¹ discuss principles of fairness, transparency and unconscionable advantage, which are relevant to manipulative practices in digital environments.

From an ethical perspective, dark patterns undermine core principles of autonomy, transparency and fairness. Users are often unaware of how their decisions are being shaped, leading to a significant imbalance of power between platforms and individuals. This concern is reinforced by judicial observations in *Internet and Mobile Association of India v Reserve Bank of India*,¹² where the Supreme Court emphasized the importance of proportionality and fairness in regulatory actions affecting digital rights. Although not directly addressing dark patterns, the case reflects broader constitutional values relevant to digital governance.

Furthermore, the use of dark patterns challenges the effectiveness of consent-based models of data protection. When consent is obtained through manipulation or lack of clarity, it becomes a procedural formality rather than a meaningful expression of user autonomy. This raises concerns regarding accountability, as platforms shift responsibility onto users while simultaneously limiting their ability to make informed choices.

In light of these issues, there is a pressing need for legal and policy reforms that move beyond a narrow focus on formal consent. Regulatory frameworks must incorporate standards addressing the design and presentation of consent mechanisms, ensuring that users are provided with clear, accessible and balanced choices. Additionally, stronger enforcement mechanisms and clearer guidelines are necessary to prevent the misuse of manipulative design practices. Ethical design principles

¹⁰ *Central Inland Water Transport Corp. Ltd. v. Brojo Nath Ganguly*, (1986) 3 S.C.C. 156 (India).

¹¹ *Life Insurance Corporation of India v. Consumer Education & Research Centre*, (1995) 5 S.C.C. 482 (India).

¹² *Internet and Mobile Association of India v. Reserve Bank of India*, (2020) 1 SCC 637 (India).

must also be promoted to prioritize user welfare, transparency and fairness.

Ultimately, addressing the legal and ethical implications of dark patterns requires a comprehensive approach that integrates legal reform, judicial oversight and responsible technological design. Without such measures, the continued reliance on consent as a cornerstone of data protection law risks becoming ineffective in safeguarding user rights in increasingly complex digital environments.

3. User Experiences of Manipulative Digital Practices: Unwanted Subscriptions and Barriers to Cancellation

• Data Analysis (Based on 25 Respondents)

Sl. No.	Survey Question	Yes (%)	No (%)
1	Awareness of dark patterns	32%	68%
2	Felt tricked while using online platforms	72%	28%
3	Experienced unwanted subscriptions	64%	36%
4	Read terms and conditions before accepting	20%	80%
5	Noticed hidden charges	76%	24%
6	Faced difficulty in cancelling services	68%	32%
7	Found cookie consent clear and understandable	24%	76%
8	Believe consent given online is fully informed	16%	84%
9	Experienced forced choices	60%	40%
10	Support stricter laws for regulation	92%	8%

The empirical data collected from 25 respondents reveals a significant gap in awareness regarding dark patterns in digital media. Only 32% of participants reported being aware of the concept of dark patterns, while a substantial 68% indicated that they were not aware of such practices. This highlights that although dark patterns are widely used across digital platforms, a majority of users lack the necessary knowledge to identify or understand these manipulative design techniques. The low level of awareness suggests that users are more vulnerable to being influenced or misled online, reinforcing the idea that consent obtained through such interfaces is often not fully informed.

The finding that 72% of respondents felt tricked while using online platforms indicates that a large majority of users have encountered deceptive or manipulative design practices. In real life, this often happens on e-commerce websites where a product initially appears at a low price, but additional costs such as delivery fees, taxes or “convenience charges” are only revealed at the final checkout stage. For example, a user booking a flight or ordering a product may select an option thinking it is the cheapest, only to realize later that the total amount has significantly increased due to hidden add-ons or pre-

selected extras. Such experiences create confusion and frustration, making users feel misled and clearly demonstrate how digital platforms can influence decisions in a way that undermines genuine and informed consent.

The data shows that 64% of respondents experienced unwanted subscriptions, while only 20% reported reading terms and conditions before accepting, highlighting a strong connection between user behavior and manipulation. In real life, this often occurs when users sign up for a “free trial” on apps or websites, but their payment details are automatically used to start a paid subscription after the trial period ends. Since most users do not read the detailed terms and conditions usually due to their length and complexity, they unknowingly agree to auto-renewal clauses. For example, a user subscribing to a streaming or learning platform may click “Agree” without reading and later find money deducted from their account. This demonstrates how lack of awareness and complex legal language contribute to the problem of unintended financial commitments.

The data indicates that 76% of respondents noticed hidden charges, while 68% faced difficulty in cancelling services, showing how digital platforms often create both financial and procedural barriers for users. In real-life situations, users frequently encounter hidden charges when the final payment amount exceeds the initially displayed price—such as extra fees added during online shopping, food delivery or ticket booking. At the same time, cancelling these services is often intentionally made complicated, requiring multiple steps, confusing navigation or even contacting customer support instead of a simple “cancel” button. For example, a user may subscribe to an online service easily with one click, but when trying to cancel, they must go through several pages or unclear options, discouraging them from opting out. This reflects how platforms use design strategies to retain users and increase revenue, often at the cost of transparency and user autonomy.

Only 24% of respondents found cookie consent notices clear and understandable, while a large 76% considered them confusing or misleading. This suggests that most users struggle to comprehend how their data is being collected and used. Furthermore, just 16% of participants believed that their online consent is fully informed, whereas an overwhelming 84% felt that it is not, highlighting a serious gap between legal requirements and practical realities. This indicates that consent mechanisms often fail to meet the standard of being free, informed and specific. Additionally, 60% of respondents reported experiencing forced choices, where they had no real option but to accept certain conditions to proceed, such as mandatory acceptance of cookies

or permissions. This undermines the voluntary nature of consent and reflects manipulative interface design. On the other hand, 40% did not report such experiences, suggesting some variation in user interaction. Importantly, a striking 92% of respondents supported stricter laws and regulations, while only 8% opposed such measures, clearly demonstrating strong public demand for better legal protection. This overwhelming support indicates that users are aware of the risks posed by digital platforms, even if they may not fully understand the mechanisms behind them. Overall, the findings emphasize the urgent need for clearer consent frameworks, improved transparency and stronger enforcement to protect users from deceptive digital practices.

CONCLUSION

This paper establishes that the proliferation of dark patterns in digital environments fundamentally challenges the validity of consent as a cornerstone of data protection law. Despite the fact that the legal frameworks, like the Digital Personal Data Protection Act, 2023 and the General Data Protection Regulation, prescribe that the consent has to be free, informed, specific and unambiguous, the ubiquitous nature of manipulative interface design reduces consent to a formality. The process of user agreement in such occasions is usually achieved by design induced influence instead of actual understanding and therefore, gives an illusion of consent and undermines the normative foundation of privacy and autonomy.

This conclusion is further supported by the empirical evidence which shows that users regularly experience misleading practices, such as unwanted subscriptions, hidden fees and cancellation barriers and most of them admit that their consent is not informed. These observations underscore the importance of redirecting regulatory attention to substantive fairness in digital design instead of mere formal compliance. To guarantee meaningful user choice, strengthening enforcement, integrating design-based standards and encouraging ethical interface practices are crucial. By addressing these gaps, digital platforms can foster meaningful consent, enhance accountability and better protect users' rights in the increasingly complex digital environment.