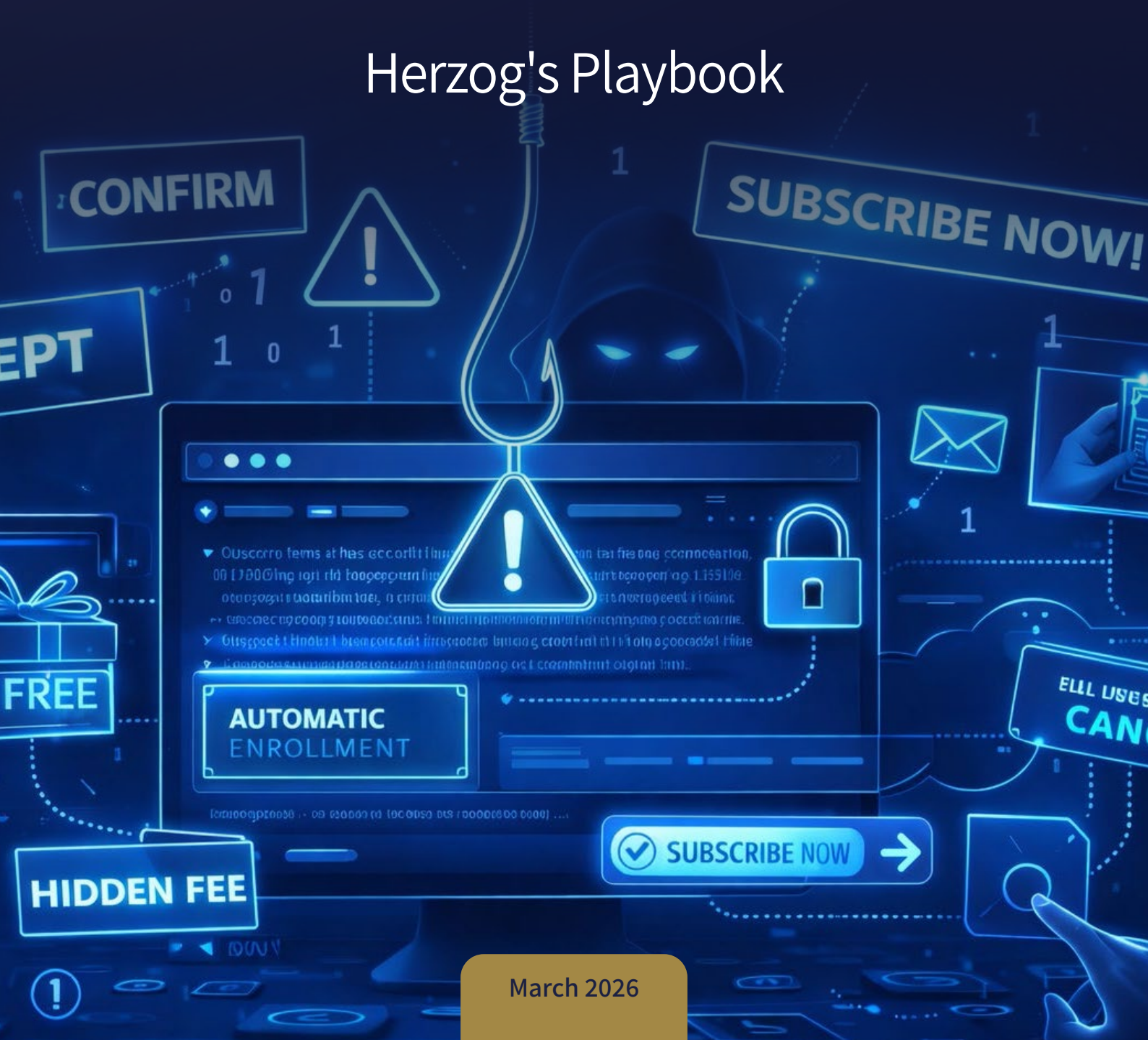




HERZOG
HERZOG FOX & NEEMAN

Detecting and Mitigating Dark Patterns on Digital Platforms

Herzog's Playbook



March 2026

INTRODUCTION

In recent years regulators around the world have intensified their scrutiny of online interface design, with a growing focus on practices commonly referred to as “**dark patterns.**” These are design choices in user interfaces that nudge, pressure or mislead individuals into taking actions they might not otherwise take, often by obscuring information, complicating navigation flows or exploiting cognitive biases. This increase in regulatory attention has resulted in a **widening set of legal obligations for online platforms** across **multiple jurisdictions**. Examples include:

- In the European Union, the [Digital Services Act](#), which provides a prohibition for online platforms to use dark pattern techniques within their platforms; Unfair Commercial Practices Directive, which prohibits misleading and aggressive commercial practices that often encompass dark patterns; and the General Data Protection Regulation (GDPR) and accompanying European Data Protection Board (EDPB) [guidelines](#) on deceptive design patterns in social media interfaces;
- In the United Kingdom, the [Online Safety Act](#), which [incorporates safety-by-design obligations](#) aimed at preventing misleading or manipulative interfaces, particularly for children; and the Digital Markets, Competition and Consumers Act 2024, which prohibits unfair commercial practices, including misleading actions, omissions, and aggressive practices that may distort consumer decision-making;
- In the United States, Section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive acts or practices in or affecting commerce, and [applies to "dark patterns"](#) as well.

In order to provide practical guidance for teams operating under the growing body of regulatory requirements governing dark patterns and interface design, this playbook outlines the **key regulatory standards that apply to online platforms** in the design, deployment and ongoing operation of user interfaces. It focuses in particular on restrictions against manipulative, deceptive or misleading design elements and sets out design requirements that ensure users are able to make free and informed decisions.

This playbook is not designed to provide an exhaustive list of dark patterns practices, nor a legal determination of every possible design risk. Instead, the categories and examples should help platforms understand dark patterns generally, as well as some common types/categories of dark patterns known at this time.



GENERAL PRACTICAL RECOMMENDATIONS

Definitions

While there is not always a formal definition of "dark patterns" under applicable laws, it can generally be described as **design choices** that intentionally or unintentionally nudge, pressure, mislead or confuse users into actions they may not otherwise take, such as sharing more data, agreeing to hidden terms, purchasing unintended items or struggling to cancel a subscription. In essence, a design becomes a dark pattern when it benefits the platform at the expense of **clear and informed user choice**.

Platforms shall not contain elements, designs or functionalities that could be **deceptive, misleading** or **materially impair** its consumers from making free and informed decisions.

- a. "**Misleading**" design patterns are actions or omissions that may consist of any commercial practice that contains false information, including in the overall presentation, or omits material information a consumer would need leading to a transactional decision that they would not have taken otherwise.
- b. "**Deceptive**" design patterns are interfaces and user journeys implemented on online platforms that attempt to influence users into making unintended, unwilling and potentially harmful decisions, often toward a decision that is against the users' best interests and in favor of the online platform's interests.

Examples of Operational Best Practices

Below are examples of best practices for UX/UI design as well as marketing and communications. These practices are intended to serve as non-exhaustive illustrations of general design principles that promote fairness, accountability and transparency. In other words, failing to follow these "Do's" and "Don'ts" may result in the use of dark patterns.

It is recommended to integrate these dark pattern compliance principles into the **product development and marketing lifecycle**. User interfaces and commercial communications should be designed and reviewed to ensure that user choices are presented in a transparent manner and that users are not exposed to misleading or deceptive practices.



UX/UI Design - Prevention of Manipulative or Misleading Interface Practices



Do

Consistency & Coherency

- **Cross-device consistency:** Ensure, where reasonably practicable, that key settings, information and user controls are accessible through equivalent journeys and interface elements across different devices (e.g. computers, smartphones), so that users are not materially disadvantaged depending on the device used. For example, avoid material user actions only available on one device, such as cancellation of a subscription only by web browser.
- **Coherent wordings:** Use the same wording and definitions to refer to the same things across the website and communications. The wording used in various policies should, where relevant, match the one used on the rest of the platform.

Information & Notifications

- **Notifications:** Use notifications to raise user's awareness of material changes or risks affecting their use of the service and ensure these notifications are provided in clear and proportionate ways using appropriate channels, such as through inbox messages, pop-in windows, fixed banners at the top of the webpage, etc.
- **Providing definitions:** Provide clear explanations in plain language to help users understand information that is material to their decisions when unfamiliar, technical or legal terms are used. This definition may be provided directly in the text or when users hover over the word, as well as in a glossary.
- **Explaining consequences:** Inform users in a neutral way about the consequences of activating or deactivating controls (e.g. privacy controls, un/subscribe from marketing communications, cancellation of accounts) or of giving or withdrawing their consent.

Interface Navigation

- **Shortcuts:** Provide contextual access to relevant information, actions, or settings where users are required to make related decisions to avoid unnecessary friction or information or power asymmetry between the platform and its users.
- **Sticky navigation:** Provide navigation aids (e.g. tables of contents or anchor links) to facilitate users' comprehension and access where pages contain complex or lengthy information material to user decisions.
- **Back-to-top:** Include a back/return-to-top button at the bottom of the page to facilitate users' navigation on a page.



Do not

Visual Presentation

- Privilege options that are more favorable to the platform through color, size, placement, contrast or similar design techniques, where this is likely to influence user decisions.
- Conceal, or make less visible, materially equivalent options by placing them behind additional clicks or scrolling.

User Choices

- Design flows (e.g. onboarding, activation, subscription) that are materially easier, faster, or more intuitive than the corresponding processes for cancellation, termination, or deactivation.
- Pre-select options that increase spending, data disclosure, tracking (e.g. cookies), unless users have provided their consent and are informed accordingly.
- Repeatedly prompt users to make the same choice after a decision has already been made (e.g. persistent pop-ups, banners, or other interruptive elements), unless a genuine and material change justifies renewed input.
- Introduce unnecessary steps, waiting periods, confirmations or warnings where their primary purpose or practical effect is to discourage users from exercising their choice.
- Reverse a user's prior choices through default resets, interface redesigns or configuration changes without clearly informing the user and offering a renewed and neutral choice.



Marketing & Communications - Prevention of Manipulative or Misleading Practices



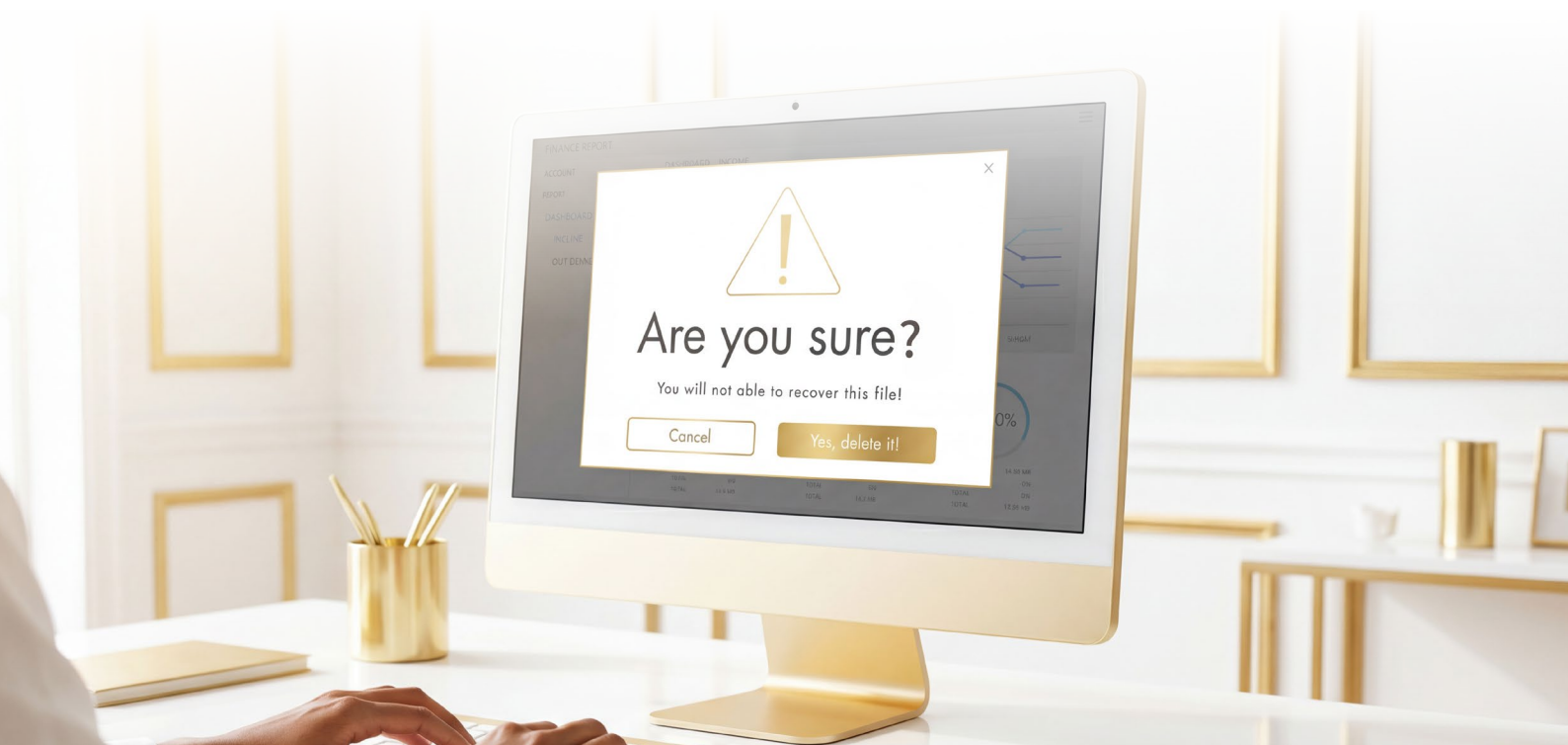
Do

- **Compliance:** Ensure compliance with applicable laws and policies of relevant ad networks and publishers.
- **Transparency:** Present all disclaimers or marketing materials in a conspicuous, prominent, visible manner and written in a plain language, in the eyes of an average consumer and in all formats (i.e., browser, apps, devices). The language of the disclaimer must be simple, clear and dominant.



Do not

- Present disclaimers, qualifications, or material information in a manner that is hidden, inconspicuous or difficult to access. Disclaimers and similar notices should be clearly visible, prominent and written in plain language, and should be accessible across all formats (including web, mobile browsers and mobile applications). Don't make any statements which are, or which may be considered, as false, deceptive, misleading or unfair.
- Encourage, promote or assist any illegal activity or any other product which may be deemed unlawful or in violation of any applicable law or regulation.
- Create a sense of urgency or a fear of missing out in any promotional material or in any other way, especially when there is none (e.g. presenting an offer as limited in time by presenting a countdown timer when the offer will continue after such limitation).
- Use expressions of opinion as objective claims about the platform - for example, saying "this promotion pays higher than all other competitors".
- Use interface language, imagery or interaction patterns that rely on guilt, fear, social pressure or moral judgement to influence user decisions.
- Use images / symbols / celebrity / entertainer endorsements or language designed to appeal specifically to children, minors, elderly or other vulnerable persons or groups of persons, and avoid placing marketing or communications in media specifically oriented to children or minors.



DARK PATTERNS TYPOLOGIES

Below is a non-exhaustive **typology of dark patterns** that should be closely examined and legally approved before implementing:

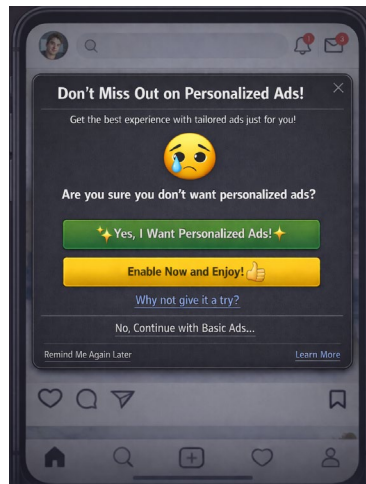


Overloading

Confronting users with an avalanche/large quantity of requests, information, options or possibilities to prompt them to, for example, unintentionally spend more money, forced actions, purchase more, accept terms, disclose more data.

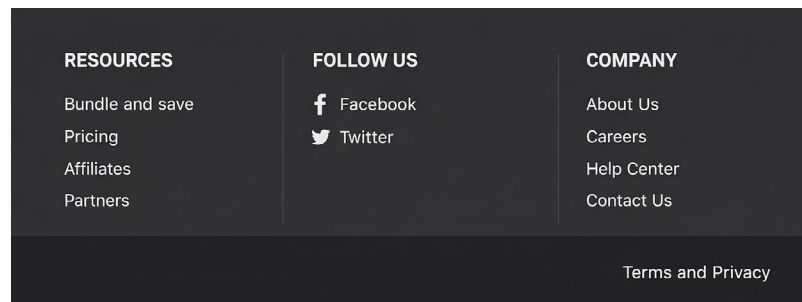
Example 1: Continuous prompting

Pop-up continuously presented to end users to consent to personalized advertising after they had not selected this option at sign-up, therefore hindering their user experience on the platform.



Example 2: Privacy Maze

Merging pages for "Privacy Policy" and "Terms of Service" that are normally separated into "Terms and Privacy", making it difficult for users to find information related to their personal data.





DARK PATTERNS TYPOLOGIES

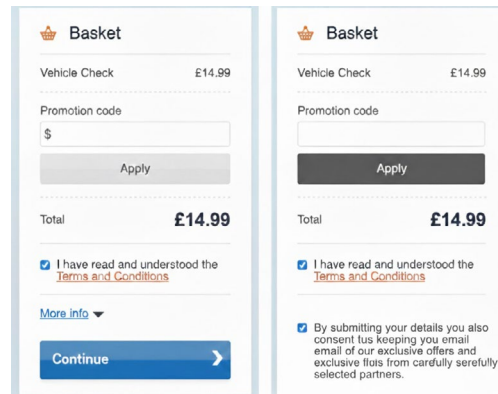


Skipping

Designing the interface or user experience in a way that steers users toward an action by making it easy, attractive or default to proceed without adequately engaging with information that is material to their decision.

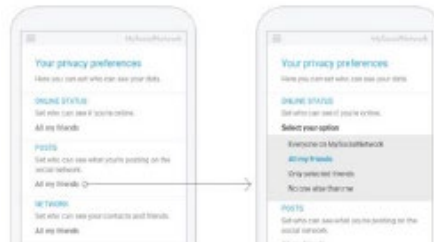
Example 1: Skipping

Nudging people to share more data than intended, such as by a user being required to select "More info" to opt-out of sharing information and receiving email spam.



Example 2: Deceptive Snugness

Users must use a drop-down menu to change privacy settings accessible by first clicking on the setting itself, which is not immediately apparent or intuitive.

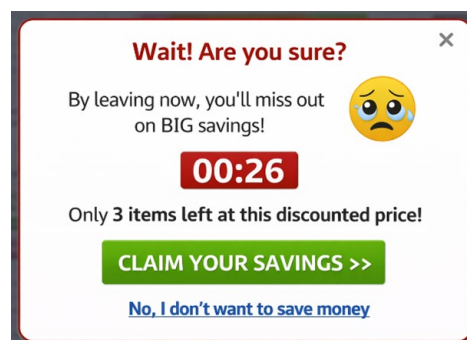


Stirring

Affecting the choice users would make by appealing to their emotions or using visual nudges.

Example: Emotional Steering

Creating false urgency to purchase right now, such as using time-bound pressure (e.g. a countdown clock) or exaggerating limited quantities or using guilt-inducing language to pressure users into making a particular decision, such as pop-ups to pressure a user to continue, count-down clocks or false stock level.



DARK PATTERNS TYPOLOGIES



Obstructing

Hindering or blocking users in the process of becoming informed or elongating their user journeys by making the action (e.g. cancelling a service or skipping a sign-up step) hard or impossible to achieve, such as by using more pop-ups.

Example: Longer than necessary

Making selecting options, like cancelling memberships, longer than necessary by requiring irrelevant steps, such as by requiring a user to call a hotline or requiring an answer to a question.

Jeans	
Add Promo Code	\$39
Promo Savings:	\$39
Promo Savings: 60% Off	-\$19.50
SUBTOTAL	\$19.50

CONTINUE TO CHECKOUT

No Commitment to Buy
Shop or 'Skip the Month'. Skip as many months as you want it's always your choice.

Cancel your membership any time by calling (855) HFNFSHN.

Cancel your membership any time by calling (855) HFNFSHN.

Earn VIP Member Credits
If you don't shop or 'Skip the Month' by the 5th of each month, your payment method will be charged \$59.95 on the 6th until you cancel your membership. That charge becomes a member credit you can use to shop or save.



Fickle

Designing the interface or presenting important information (e.g. terms and conditions, use of personal data) in a way that is inconsistent, redundant, or not clear, making it hard for users to navigate and understand this information.

Example 1: Fickle

Designing the "Confirm" button to stand out for users to subscribe to a newsletter to continue using a website, while the "No" button blends into the background.

Confirm newsletter subscription

You need to subscribe to the newsletter to continue.

You agree that HFN Fashion may collect and use your personal data which you have provided for providing marketing material via email about new arrivals, promotions, trends, and events. In order to be able to inform you in a relevant manner, HFN Fashion may combine the information you have provided with newsletter click, visitor and purchase behavior on the website, and product registrations for newsletter campaigns.

You can revoke your consent at any time, either per opt-out link at the bottom of every email you receive from us, in writing to above address or via email to privacy@HFNfashion.com.

The revocation of your consent will not affect the legitimacy of processing your data between consent and its revocation. We process your personal data in accordance with our privacy policy.

No Confirm

Example 2: Inconsistent interface

Platform requires users to use the web browser version instead of the app to complete subscription changes (unless justified due to mobile app stores requirements or limitations).

Subscription

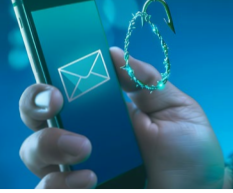
Please go to the website to view details or make changes to your subscription.

Payment method: Visa ****5234



Subscription changes unavailable in app

Update add-on subscriptions in your web browser.



DARK PATTERNS TYPOLOGIES

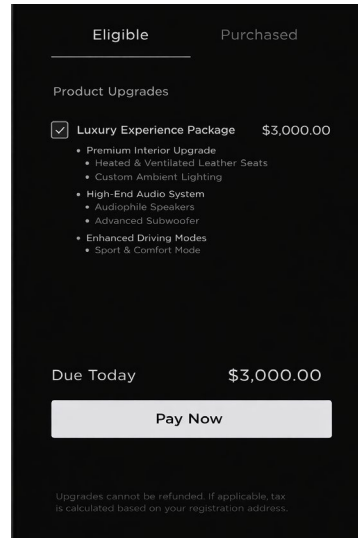


Left in the dark

Hiding information or control tools, leaving users unsure of important information, such as how data is processed and what kind of controls they might have over it, how to proceed in certain situations, and the consequences of their actions. Lacking this information often results in users simply accepting the default settings.

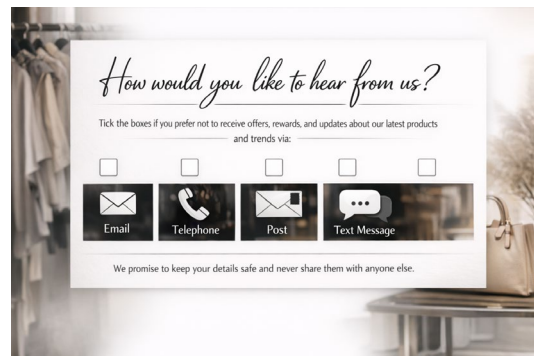
Example 1: Left in the dark

The term that upgrades cannot be refunded and that tax is calculated based on a user's registered address is hidden in darkened text below the "Pay Now" button.



Example 2: Ambiguous wording or information

Using confusing language and checkboxes to make it hard for users to know if they are opting in or out (i.e. tick the boxes if you don't want to opt-in).





HERZOG'S TECHNOLOGY REGULATION DEPARTMENT

Herzog's Technology Regulation Department is a recognized market leader in its field.

The team is led by domain experts who possess a unique combination of **legal, technological** and **operational** expertise, and is uniquely positioned to advise a wide range of clients, including leading multinational technology companies as well as start-ups and vendors of disruptive technologies, on regulatory and compliance considerations across the digital ecosystem.

We understand that companies operating in digital environments face regulatory scrutiny that extends far **beyond one jurisdiction or discipline**. As our clients are often at the forefront of rapidly evolving markets, we recognize the impact that **global enforcement trends, platform rules and design-related compliance requirements** have on their products and operations. Our team maintains in-depth knowledge of the growing body of regulation, enforcement actions and industry standards that govern online interfaces, user journeys and commercial communications. This enables us to offer practical and holistic solutions for complex situations arising from innovative technologies and fast-moving regulatory expectations.

Digital products, online platforms, eCommerce, advertising and user-facing interfaces now form a core component of almost every business. Advising on these issues requires deep understanding of the intersection between legal requirements, UX and UI design practices, behavioral economics, product architecture and commercial strategy. We help clients navigate interdisciplinary and sometimes conflicting obligations that arise under privacy, consumer protection, online safety and advertising laws together with platform guidelines and industry codes.

Our dark-patterns and interface-design advisory support spans the full lifecycle of product development and ongoing operations. This includes:

- Analyzing product flows and user journeys to identify potential dark patterns, deceptive design risks and areas of regulatory exposure;
- Advising on global regulatory requirements related to interface design, including restrictions on manipulative, misleading or high-friction patterns;
- Designing and documenting defensible, user-centric and regulator-aligned decision flows that promote transparency and informed choice;
- Supporting teams in structuring clear notices, consent mechanisms and commercial communications that withstand regulatory scrutiny;
- Developing governance frameworks and internal processes that integrate dark-patterns compliance into product, engineering, design and marketing workflows;
- Assisting with regulatory engagement, including responses to inquiries, investigations and enforcement actions involving deceptive or manipulative design allegations.

This document does not constitute an exhaustive legal opinion or regulatory overview of all applicable regulatory requirements regarding the topics addressed by it, but rather, only outlines the key issues arising from the regulatory requirements. Since we are not licensed to practice law outside of Israel, this document is intended to provide only a general background regarding this matter. This document should not be regarded as setting out binding legal advice, but rather a general overview which is based on our understanding of the practical interpretation of the applicable laws, regulations and industry guidelines.



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