



Choice or Coercion by Design? A Doctrinal and Empirical Analysis of Dark Patterns in Indian E-Commerce

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ABSTRACT :

The interfaces on which Indian consumers transact business are increasingly designed to steer behaviour, and the size of e-commerce market has grown at a rapid rate. In this paper, the author(s) question whether consumer purchasing on e-commerce platforms in India occurs as a result of their own choice or manipulation by the dark pattern. This includes an analysis of the Consumer Protection Act, 2019, the Consumer Protection (E-Commerce) Rules, 2020, the Guidelines for Prevention and Regulation of Dark Patterns, 2023 and the latest orders of the Central Consumer Protection Authority alongside a secondary study which is based on a triangulation of platform audits, consumer surveys and experimental literature. The authors argue that while evidence of prevalence was strong, evidence of causal impact in India was thin; purchase decisions are not free but 'bounded choice'; the regime, while sound in design, is undermined by relatively weak penalties and reliance on self-declaration. It sets forth reforms and a primary research agenda.

Keywords: Dark pattern, deceptive pattern, consumer protection, e-commerce, Central Consumer Protection Authority, consumer autonomy.

1. Introduction

India's online shopper base is now estimated at some 304 million people.¹ The term 'dark patterns', popularised by Harry Brignull, describes something narrower than ordinary persuasion: interface choices that work against the user's interests by exploiting predictable cognitive biases.² Countdown timers that reset, pre-ticked boxes, fees disclosed only on the final screen and cancellation routes buried in menus are familiar examples.

The Indian regulatory response has been swift. The Central Consumer Protection Authority (CCPA) issued dedicated Guidelines in November 2023, monetary penalties started to be imposed from the end of 2025 and industry audits continue to show that nearly all large platforms are using at least one of the prohibited patterns. While these developments create legal questions that can only be answered through analysis, there is a question of influence that these developments raise: is this an Indian consumers choice to make or is it one that is muddled by influence that the platform created?

This paper tackles that question via a blended design. Part 2 develops an actual test for choice vs. manipulation, parts 4 and 5 go to work and implement a secondary-data approach, parts 6 and 7 discuss and recommend. The crux of the argument is that the choice of consumers in India is not 'unbounded', but most of their purchases are driven by real needs, with the conditions of completion, including price, optional extras, delivery time and disclosure of data, engineered to meet the design specifications. Only online retail (marketplaces and quick commerce).

2. Conceptual Framework: Choice, Nudges and Manipulation

In traditional consumer law, the assumption is made that the consumer is a rational buyer whose decisions indicate what he prefers. In Puttaswamy³ the Supreme Court recognized that decisional autonomy is part of the dignity guaranteed with Article 21, and a consumer whose choice is misled, or coerced, is, in a very limited but meaningful way, deprived of the autonomy. Behavioural economics introduces the empirical fact that real decisions are made under conditions of limited attention and are based on the use of heuristics that can be predicted and exploited by the designer of the product or service.⁴ Not all steering is bad. Thaler and Sunstein's 'nudge' is obvious, maintains the simplest route to the consumer's desired outcome and is easily resisted. The difference between dark patterns and ordinary patterns is that dark ones obscure or mislead material information, present a limited menu of choices or make it less expensive to say no than to say yes. Luguri and Strahilevitz thus conducted a large-scale online experiment to see how much effect dark

¹How Dark Patterns Are Quietly Costing Indian Online Buyers ₹28,000 Crore Annually, Logical Indian (2026), <https://thelogicalindian.com/how-dark-patterns-are-quietly-costing-indian-online-buyers-%E2%82%B928000-crore-annually/>.

²Harry Brignull, *Deceptive Patterns: Exposing the Tricks Tech Companies Use to Control You* (Testimonium Ltd. 2023).

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

⁴Richard H. Thaler & Cass R. Sunstein, *Nudge: Improving Decisions About Health, Wealth, and Happiness* (Yale Univ. Press 2008).

patterns have on conversion rates, and found mild dark patterns increased acceptance of a paid identity-theft protection plan by more than double, while aggressive patterns increased it by nearly quadruple – which led them to conclude that “dark patterns” were a consumer protection issue and should be subject to regulation.”⁵ A crawl of approximately 11,000 shopping websites likewise identified dark patterns on 1,254 of them⁶, leading the OECD to treat such practices as a consumer-protection concern worthy of regulatory attention.”⁷

The paper incorporates three tests. A purchase occurs when the consumer has been given sufficient material information, an unbiased choice set and the opportunity to reject with little increased or decreased cost. If it is possible to engineer out at least one of those conditions, it is a dark pattern that influences a purchase. The test is intentionally effects-based, as the doctrinal discussion that follows will demonstrate that the Guidelines are based on design purpose, which is more challenging to prove.

3. Doctrinal Analysis: Indian Legal Framework

3.1 The Competition Act 2010

Dark patterns are not explicitly mentioned in the Consumer Protection Act 2019 (CPA), but its definitions are sufficiently wide to include dark patterns. Section 2(9) defines consumer rights to include the right to be informed and the right to be protected against unfair trade practices.⁸ Section 2(47) and Section 2(28) define ‘unfair trade practice’ and ‘misleading advertisement’ respectively.⁹ The CCPA is empowered to regulate things that impact consumers’ collective interest, including issuing guidelines¹⁰, and penalties for misleading advertisements are capped at ₹10 lakh for first contravention, and ₹50 lakh for subsequent contraventions.¹¹

3.2 The Consumer Protection (E-Commerce) Rules 2020

The rules also place obligations on e-commerce companies and the prohibition on unfair trade practices and a requirement that consent to a purchase be explicit and affirmative rather than recorded automatically.¹² That requirement is the doctrinal core of the prohibition on ‘basket sneaking’, with a pre-ticked box being the exact opposite of ‘affirmative consent’.

3.3 Guidelines for Prevention and Regulation of Dark Patterns 2023

The Guidelines, notified on 30 November 2023 under Section 18, define dark patterns as practices or deceptive design patterns, using user interface or user experience interactions on any platform, designed to mislead or trick users into doing something they did not originally intend, by subverting or impairing consumer autonomy, decision-making or choice.¹³ They apply to platforms systematically offering goods or services in India, to advertisers and to sellers and prohibit any person from engaging in a dark pattern.¹⁴ Some examples of dark patterns are False urgency, Basket sneaking, Confirm shaming, Forced action, Subscriptions trap, Interface interference, Bait and switch, Drip pricing, Disguised advertisement, Nagging, Trick question, SaaS billing and Rogue malwares, as detailed in Annexure 1. According to a draft, published in September 2023, 10, and the final text added three.¹⁵ There are three features in that question. The definition is indicative and the CCPA can be supplemented by other laws¹⁶, and therefore, one interface may have liability under the CPA, Rules and sectoral regulators at the same time.¹⁷ Third, the definition depends on a practice ‘designed’ to mislead, which

⁵Jamie Luguri & Lior Jacob Strahilevitz, *Shining a Light on Dark Patterns*, 13 J. Legal Analysis 43 (2021).

⁶Arunesh Mathur et al., *Dark Patterns at Scale: Findings from a Crawl of 11K Shopping Websites*, 3 Proc. ACM Hum.-Comput. Interact. 81 (2019).

⁷OECD, *Dark Commercial Patterns* (OECD Digital Economy Papers No. 336, 2022).

⁸Consumer Protection Act, 2019, No. 35 of 2019, § 2(9) (India).

⁹*Id.* §§ 2(28), 2(47).

¹⁰*Id.* §§ 10, 18.

¹¹*Id.* §§ 20–21; *Misleading Dark Patterns on Digital Platform: Consent Engineered Through Guilt*, Chambers & Partners, <https://chambers.com/articles/misleading-dark-patterns-on-digital-platform-consent-engineered-through-guilt>.

¹²Consumer Protection (E-Commerce) Rules, 2020, r. 4 (India); *Part I: Small Fines, Big Platforms: The CCPA on PhysicsWallah, McAfee, and the Cost of Getting Caught*, SpicyIP (July 2026), <https://spicyip.com/2026/07/small-fines-big-platforms-the-ccpa-on-physicswallah-mcafee-and-the-cost-of-getting-caught-part-i.html>.

¹³Cent. Consumer Prot. Auth., *Guidelines for Prevention and Regulation of Dark Patterns*, 2023 (Nov. 30, 2023) (India) [hereinafter Guidelines]; *CCPA Notifies Guidelines for Prevention and Regulation of Dark Patterns, 2023 to Prevent Unfair Trade Practice*, SCC Online Blog (Dec. 4, 2023), <https://www.scconline.com/blog/post/2023/12/04/ccpa-notifies-guidelines-for-prevention-and-regulation-of-dark-patterns-2023-legal-news/>.

¹⁴Guidelines, *supra* note 13.

¹⁵Deloitte India, *Tax Alert: The Guidelines for Prevention and Regulation of Dark Patterns*, 2023 (Dec. 6, 2023), <https://www2.deloitte.com/in/en/pages/tax/articles/tax-alert-the-guidelines-for-prevention-and-regulation-of-dark-patterns-2023.html>; Obhan & Associates, *Dark Patterns Banned: Guidelines for Prevention and Regulation of Dark Patterns*, 2023, Mondaq (Dec. 11, 2023), <https://admin.mondaq.com/india/advertising-marketing-branding/1399674/dark-patterns-banned-guidelines-for-prevention-and-regulation-of-dark-patterns-2023>.

¹⁶JSA, *CCPA Issues Guidelines for Prevention and Regulation of Dark Patterns*, 2023, JSA Prism (Dec. 2023), <https://www.jsalaw.com/newsletters-and-updates/ccpa-issues-guidelines-for-prevention-and-regulation-of-dark-patterns-2023/>.

¹⁷CCPA Notifies Guidelines, *supra* note 13.

leaves room for interpretation that only intentional manipulation is caught. The CCPA's orders imply that it will assume purpose from the nature of the interface but no appellate decision has yet to address that question.

3.4 Complementary Regimes

There are two additional instruments that support the framework. In June 2025, the CCPA also issued an advisory to e-commerce platforms to self-audit for dark patterns and to self-declare.¹⁸ The CCPA also sent an advisory to ecommerce platforms to self audit for dark patterns and to submit self declarations in June 2025.¹⁹

3.5 Enforcement Practice

Enforcement has moved from advisory to penal mode. The CCPA fined Zepto ₹7 lakh in December 2025,²⁰ and on 1 June 2026 it penalised PhysicsWallah ₹5 lakh and McAfee Software India ₹1 lakh.²¹ The PhysicsWallah order is instructive. A pre-selected ₹10 donation added to the payable amount at checkout was treated as basket sneaking; emotionally charged donation messaging as confirm shaming; and courses advertised as 'free' but accessible only after disclosing a mobile number and email address as forced action.²² The conduct was held to be an unfair trade practice under section 2(47), a misleading advertisement under section 2(28), and a breach of the E-Commerce Rules.²³ The CCPA also noted that many of the platform's users are students, including minors.²⁴ By contrast, a pre-ticked ₹1-per-ticket donation on BookMyShow was flagged as basket sneaking but corrected without penalty, an inconsistency noted in commentary.²⁵

The framework is doctrinally correct but it is less effective at deterring. The penalties envisioned under the Digital Personal Data Protection Act for certain types of data falsifications can be ₹250 crore, while fines of ₹5 lakh and ₹1 lakh are relatively light for the large platforms. The fines of ₹5 lakh and ₹1 lakh are also light loads compared to the revenues of big platforms and much lower than the penalties envisioned under the Digital Personal Data Protection Act for certain types of data contraventions, which can be ₹250 crore.²⁶

4. Research Methodology

The empirical strand is a secondary-data analysis while statutes, rules, guidelines and CCPA orders constitute primary materials, which will be interpreted to find out what is prohibited by the laws and how they are applied.²⁷ It does not survey any new data, but rather compiles and codes already available evidence to determine if purchases in Indian e-commerce comply with the Part 2 test of free choice.

Four criteria were used to choose the sources: they must be public, they must have a disclosed sample or method, they must be relevant to the field of Indian online retail (or, as a foundational study, broadly used by scholars), and they must be recent. The four dimensions coded for each source were prevalence – do patterns occur on platforms, exposure – do consumers come into contact with the patterns, effect – do the patterns influence consumers' behaviours, and harm – monetary or other loss to consumers. CCPA orders were coded independently by the pattern and the basis and outcome of the order.

The restrictions are harsh. The vast majority of Indian data come from private companies, are not peer-reviewed and depend on consumers' own experiences or private detection devices. The results hence reflect the evidence, rather than any definitive estimates of causal effects for India.

5. Empirical Findings

5.1 Prevalence

There is a consistency with respect to prevalence evidence from India. The findings from the crawl evidence mentioned above are corroborated with a LocalCircles audit that combined some 77,000 consumer responses with an AI-based detection model, which revealed that 97 per cent of the 290 major

¹⁸Digital Personal Data Protection Act, 2023, No. 22 of 2023, § 6(1) (India).

¹⁹*The Dark Patterns Regime: From Guidelines to Enforcement*, Law.asia (2026), <https://law.asia/?p=708702>.

²⁰*Small Fines, Big Platforms*, *supra* note 12.

²¹PTI, *CCPA Slaps Fines on PhysicsWallah, McAfee for "Dark Pattern" Practices*, ETV Bharat (June 3, 2026),

<https://www.etvbharat.com/en/bharat/ccpa-slaps-fines-on-physicswallah-mcafee-for-dark-pattern-practices-enn26060303886>.

²²*CCPA Suo Motu Order Against PhysicsWallah (PW)*, *Deceptive Patterns* (June 1, 2026), <https://deceptive.design/enforcement/ccpa-suo-motu-order-against-physicswallah-pw>; *Misleading Dark Patterns*, *supra* note 11.

²³*Small Fines, Big Platforms*, *supra* note 12.

²⁴PTI, *supra* note 21.

²⁵*Small Fines, Big Platforms*, *supra* note 12.

²⁶*Misleading Dark Patterns*, *supra* note 11.

²⁷Terry Hutchinson & Nigel Duncan, *Defining and Describing What We Do: Doctrinal Legal Research*, 17 Deakin L. Rev. 83 (2012).

platforms still used dark patterns in 2023, with Amazon, Flipkart, Tata Neu, JioMart and Myntra each identified as using two to four recurring patterns.²⁸ A separate LocalCircles audit that covered 228 platforms found forced action to be the most common pattern used, with 123 platforms (54 per cent) identified as using the pattern.²⁹ A July 2026 audit of over 310 platforms revealed that 95 per cent of 100 companies listed with online consumer transactions used at least one dark pattern.³⁰ The findings are confirmed by the crawl evidence mentioned above.³¹

5.2 Exposure and Harm

It does not indicate that consumers are impacted just because of prevalence. In another LocalCircles survey, 52 per cent of the 10,352 consumers surveyed felt that they faced hidden fees³² while making online payments, whereas 81 per cent reported knowing about dark patterns in online transactions.³³ According to e-commerce, quick commerce, and travel platforms (OCT) study by Datum Intelligence, released in the first quarter of 2026, 88 per cent of online consumers experience dark patterns, with annual losses estimated to range between ₹25,000 and ₹28,000 crore.³⁴

5.3 Behavioural Effect

Weakest evidence is behavioural effect. There was no experiment found in India that is similar to the ones performed by Luguri and Strahilevitz. A commercial and unconfirmed estimate of the losses' monetary impact is suggested by Datum's report of the acceptance level: 11.3 per cent in the control condition, 25.8 per cent with mild patterns, and 41.9 per cent with aggressive patterns.³⁵ Datum's loss estimate implies a substantial monetary effect, but it is commercial and unverified.

5.4 Summary and Coding of Enforcement

The evidence that can be summarised is the following: According to a LocalCircles audit (2025) that combined AI detection with some 77,000 consumer responses, dark patterns were spotted on 97 per cent of 290 platforms. Its 2024 payments survey showed that half of the respondents had spotted a dark pattern. According to Datum Intelligence (2026), 88 per cent of the 2,590 consumers surveyed in 50 cities across 12 platforms were impacted with an estimated loss of ₹25,000-28,000 crore for the population annually. Mathur and others (2019) scanned approximately 11,000 stores and discovered 1,818 cases on 1,254 stores, with 11.3 per cent (mild) and 41.9 per cent (aggressive) of acceptance observed in a United States experiment by Luguri and Strahilevitz (2021). When the enforcement matters are encoded by pattern, it turns out that the pattern of basket sneaking is found in both the PhysicsWallah and the BookMyShow matters, each with a small pre-selected charitable add-on. The amounts are small for each transaction, but may add up to substantial amounts if a default that most consumers do not reverse occurs, but this is an inference from the pattern rather than a documented finding.

6. Discussion: Bounded Choice

The three-part test leads to a differentiated response to this evidence. Drip pricing and hidden fees strike at the first condition directly, on information. On neutrality: interface interference, pre-selection and false urgency influence the option set. Subscription traps and forced action increase the expense of opting out and affect symmetry. From the prevalence evidence it is clear that at least one of these conditions is not neutral for the vast majority of platforms.

Two cautions prevent the conclusion that purchases are just being manipulated. Firstly, exposure is not susceptible. The consumer awareness rate in Datum's sample is 81 per cent, revealing that many consumers are aware and reject these practices, and if the consumer purchases a known necessity then they are not meaningfully steered. Second, the evidence of causality is mainly from the United States. It is a hypothesis and not a finding that Indian consumers' price sensitive and mobile-first shopping habits are making them more susceptible to festive sales.

²⁸LocalCircles Audit on Dark Patterns in E-Commerce Platforms, MediaNama (Oct. 2025), <https://www.medianama.com/2025/10/223-localcircles-e-commerce-platforms-dark-patterns-hidden-fees/>.

²⁹Indian Apps Show High Exposure to Dark Patterns: Survey, Deccan Herald, <https://www.deccanherald.com/amp/story/business%2FIndian-apps-show-high-exposure-to-dark-patterns-survey-3561483>.

³⁰95% of Indian Listed Firms Use Dark Patterns: How Regulators Are Responding, Business Standard (July 2026), https://www.business-standard.com/industry/news/95-of-indian-listed-firms-use-dark-patterns-how-regulators-are-responding-126071500577_1.html.

³¹Mathur et al., *supra* note 6.

³²Half of Consumers Battling Dark Patterns: Hidden Fees, Forced Actions Plague Online Payments, Reveals Survey, Business Today (Apr. 9, 2024), <https://www.businesstoday.in/amp/latest/trends/story/half-of-consumers-battling-dark-patterns-hidden-fees-forced-actions-plague-online-payments-reveals-survey-424949-2024-04-09>.

³³Designed to Deceive: Hidden Traps of the Internet Economy, Deccan Herald, <https://www.deccanherald.com/amp/story/business%2Fdesigned-to-deceive-hidden-traps-of-the-internet-economy-3650310>.

³⁴Dark Patterns Cost Indians up to ₹28,000 cr a Year, 88% of Online Buyers Affected: Report, Business Today (June 9, 2026), <https://www.businesstoday.in/amp/india/story/dark-patterns-cost-indians-up-to-rs28000-cr-a-year-88-of-online-buyers-affected-report-535812-2026-06-09>; *How Dark Patterns Are Quietly Costing Indian Online Buyers*, *supra* note 1.

³⁵Luguri & Strahilevitz, *supra* note 5.

The better reading is, then, 'bounded choice'. It usually starts with need or desire, but with dark patterns it takes place on the fringes of the purchase: add-on, donation, subscription after a free trial, purchase at a fast pace during a countdown, data given away for a 'free' offer. Those margins are where enforcement orders are grouped. The consent that is gained by such design should not be considered valid and regulators should rely on the interface and not on the click to assess whether the choice is free.

7. Recommendations

Four reforms follow. Self-declaration should be replaced by independent, periodic audits first of all. Second, Parliament should think about introducing penalties based on turnover or based on the benefit that the platforms get from using these dark patterns, since ceiling rates in rupees cannot prevent large platforms from doing so. Third, the CCPA should expressly include that it shall be read in the manner of its effect, thereby obviating the need for complaining parties to prove intent to inflict harm. Fourth, researchers and regulators must conduct randomised experiments and consumer surveys that have been validated for Indian contexts to fill the causal evidence gap outlined in Part 5. Clear, logical decisions would also boost the regime's legitimacy.

8. Conclusion

The question of whether or not Indians choose to shop using dark patterns is not binary. The doctrinal analysis suggests that the CPA provides doctrinal concepts, the Rules and Guidelines provide specificity, and the enforcement has started in the recent orders, albeit at a modest level. The empirical analysis shows that prevalence is almost universal, exposure is high, the foreign evidence of behavioural effect is strong but there is very weak causal evidence for India. Consumers thus select in a systemically biased market environment at the margins of the transaction. The deterrence measures will need to be tightened, evidence to be more independent and, most importantly, Indian evidence about what impact these designs actually have on behaviour.

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