

DARK PATTERNS

What are dark patterns?

Dark patterns are tactics some businesses use to nudge, manipulate or trick consumers into spending more money than planned or providing personal data that's not required.

Dark patterns can be used in many situations – face-to-face, over the phone, or electronically. Consumers will see them most often on digital channels such as online platforms, shopping websites, apps, email and text messages.

Dark patterns can influence consumers when making decisions about:

- which services best suit their needs
- signing up to or continuing with paid subscriptions
- accepting terms and conditions relating to personal privacy.

Examples of dark patterns include:

- hidden costs - extra costs consumers only find out about just before completing their purchase, or which are made less obvious
- scarcity cues - designed to create a fear of missing out, which pushes users to make rushed decisions about buying or spending more than they planned
- confirm shaming - loaded language designed to make the consumer feel silly or worried if they don't agree to buying a product or service
- forced continuity - subscriptions that are easy to sign up to, but hard to get out of

It is important that consumers are aware of these dark pattern strategies that some businesses use, especially when purchasing products quickly or when under stress.

Hidden costs

Hidden costs are extra costs you only find out about towards the end of the purchase process, or which are made less obvious. They include pre-selected extras you may not want and add-ons presented so you feel you have to buy them.

Some hidden costs are even sneakier, such as a pre-selected free trial period for a service that renews automatically if you don't cancel before it ends, or charging your card for an ongoing membership. Always check your credit card statements carefully, so that you are fully aware of the automatic payments that are being extracted.

Trick questions

Trick questions are used to lead you to make choices that are in the business's interests and not necessarily in yours. They are commonly used for subscriptions, auto-purchase agreements and data collection (particularly those innocent-sounding *cookies* - information a website stores about you when you visit).

For example, if you're trying to cancel a subscription, you may be faced with a confusing question that asks if you really want to cancel and gives you 2 options: 'Continue' or 'Cancel'. This may be intentionally unclear, where 'Continue' means continuing the cancellation process and 'Cancel' means stopping the cancellation process. You may then think you've cancelled the subscription until you are charged another subscription fee.

Similarly, a request to accept website cookies or data collection may have a big, bold button to accept, and a much smaller, discrete 'Manage your cookies' link. The website may give you the option to accept the cookies or to view the cookie policy, but never gives you the option to opt out of having cookies track your activities.

Scarcity cues

Scarcity cues are designed to create a fear of missing out, which pushes you to make rushed decisions about buying or spending more than you planned. Examples are countdown timers for shopping carts or notifications about discount prices and low stock (e.g. 'Only 4 left').

Activity notifications

Activity notifications tell you what other people are doing on a website or app (e.g. 'Someone in Oakey just bought the You Beaut Swag' or '15 people are currently looking at this hotel room'). These notifications will appear seconds apart and often be bundled with scarcity cues to create or enhance a sense of urgency.

The activity described may be fake, or they could be real purchases over a long period that are set to repeat on the website to suggest constant business and high demand. It is important to carefully consider all online purchases and try to resist being rushed through the process.

Confirm shaming

Confirm shaming is loaded language designed to make you feel silly or worried if you don't agree to buy a product or service. This dark pattern usually appears on subscription offers and larger purchases.

For example, an online shop you're browsing might offer you a 10% discount on your next purchase if you subscribe to their newsletter. Instead of giving you 'Yes' or 'No' options, you're faced with 'I'd love a discount!' and 'No thanks, I prefer to pay full price'.

Similarly, you might be offered an after-purchase care plan and the options to tick are 'Yes please, I'll feel better knowing I have that protection' and 'No thanks, I'll take my chances'.

Forced continuity

Forced continuity refers to subscriptions that are easy to sign up to, but hard to get out of.

You may only have to provide basic details to subscribe for a product or service, but to cancel you may need to go through multiple steps online or even have to phone the company who may try to talk you out of your cancellation.

Forced continuity is sometimes combined with hidden costs.

Data grabs

A data grab is when businesses ask you for more information than they need, and more than you may be comfortable to disclose.

Have you ever had to provide your full name and postcode when subscribing to a newsletter? Or had to provide your date of birth for a purchase? That's a data grab and you should be concerned about what the business plans to do with your information and how securely are they storing it. Your personal information is a commodity that some businesses on-sell to other businesses.

Learn about a business's responsibilities when [collecting and storing customer information](#).

Disguised advertisements

Disguised advertisements are often 'clickbait' - a headline or link, which may be sensationalised or misleading, designed to attract your attention and make you click through to other online content.

They are designed to look like genuine content or search results on a website that will instead redirect you to a product or service. These are particularly common on social media platforms and news websites.

False hierarchy

False hierarchy tactics are designed to nudge you towards the business's preferred product or service they provide.

The business's preference is generally displayed prominently using attractive colours, while the least preferred option can be presented in smaller font or in subtle or dull colours.

Redirection or nagging

Businesses use redirection or nagging tactics to continuously move you away from the task you want to complete, such as trying to leave their website after browsing without buying.

Redirection or nagging often appear as pop-ups to encourage you to subscribe or set up an account to receive a discount, and in some cases you may get a series of pop-ups, one after another.

Avoiding dark patterns

As a consumer you can avoid dark patterns simply by shopping elsewhere. You can also call out the dark pattern strategy that some businesses use by contacting them and explaining how the strategy impacted your shopping experience. Some businesses use contractors to build their online store and are genuinely unaware of dark patterns on their website and how this impacts their customers.

To avoid dark patterns:

- don't be rushed
- shop around by looking at other suppliers or options
- do your research to be sure the website is reputable and safe to use
- understand the trader's refund policy

- read the fine print, including the terms and conditions, before you click 'pay'
- budget and spend sensibly
- ask family and friends for supplier recommendations and do a search for reviews
- read a selection of reviews from one to five stars, especially more recent reviews
- know when you're entitled to a refund, repair or replacement
- look after your receipts and keep your proof of purchase in case something goes wrong

For businesses

Research from the Consumer Policy Research Centre showed that 30% of Australians have stopped using a website or app because of dark patterns, so it's in the best interest of your business to avoid using them. Put your customers (and your brand) first and choose communication and sales tactics that are fair and reasonable. Do not engage in conduct that is false or misleading.

When signing up customers to subscriptions:

- use clear and simple language
- be transparent
- ensure key terms are clearly drawn to the attention of your customers during the sign-up process and any renewal process.

Businesses may wish to obtain independent legal advice if they have specific questions about how the law applies in their specific situation.