Centre To Stop Sites From Weaving 'Dark Patterns' To Mislead Buyers

Draft guidelines open for public comments till October 5; they include ways to prevent and regulate 'false urgency, basket sneaking, confirm shaming, forced action, subscription trap'; applicable to online platforms including sellers and advertisers

THE HINDU BUREAU NEW DELHI

The Centre has sought public comments on the draft guidelines for prevention and regulation of "dark patterns" on the Internet, particularly in e-commerce platforms. The guidelines include ways to prevent and regulate false urgency, basket sneaking, confirm shaming, forced action, subscription trap and more such "dark patterns". The public can comment on the guidelines, uploaded on the Union Consumer Affairs Ministry's website, till October 5.

Dark patterns have been a prominent feature of many apps and websites over the course of the Internet's growth, and regulators around the world have started taking steps to limit them. In the European Union, for example, users complained that Amazon's Prime service was difficult to unsubscribe online, as the firm would redirect users through a series of pages seeking to retain them. After talks with the European Commission, the company agreed last June to simplify the process.

'Mislead users'

The draft guidelines have defined dark patterns as "any practices or deceptive design patterns using user interface or user experience interactions on any platform; designed to mislead or trick users to do something they originally did not intend or want to do; by subverting or impairing the consumer autonomy, decision making or choice; amounting to misleading advertisement or unfair trade practice or violation of consumer rights."

Some of the different types of dark patterns, defined by the Ministry, are "false urgency", meaning falsely stating or implying a sense of urgency; "basket sneaking", meaning inclusion of additional items at the time of checkout without the consent of the user; and "confirm shaming", or using a phrase, video, audio or any other means to create a sense of fear or shame or ridicule or guilt in the mind of the user.

The dark patterns include "forced action", which forces a user into taking an action that would require the user to buy additional goods; "subscription trap", or the process of making cancellation of a paid subscription impossible or complex; "interface interference", the design element that manipulates the user interface; and "bait and switch", the practice of advertising a particular outcome based on the user's action. "Drip pricing" is another such practice whereby elements of prices are not revealed upfront and "disguised advertisement" and nagging have been defined by the Ministry in the guidelines.

"Guidelines would be made applicable to all the persons and online platforms including sellers and advertisers," the Ministry said in a release.

Renu Gupta, an advocate who has written about dark patterns and competition, commended the introduction of the draft guidelines. She cautioned that enforcement might be a tricky issue.

"The real challenge lies in conclusively proving that certain practices indeed qualify as dark patterns," Ms. Gupta said. "Consider the 'false category,' for instance. How will a regulator determine if a hotel or platform claiming 'only 2 rooms remaining – book now!' is genuinely providing accurate data, or misleading users due to a lack of context," Ms. Gupta said.

She said some dark patterns were easy to regulate, such as e-retail sites adding items to a customer's cart, while other categories like 'disguised advertisements' may need further clarity.