Shardul Amarchand Mangaldas



Dark Patterns in Insurance

IRDAI's Consultation Paper Signals a Technology-Driven Regulatory Shift

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Background

On September 23, 2026, the Insurance Regulatory and Development Authority of India (**'IRDAI'**) released a public consultation paper titled *"Recalibrating Economics of Insurance Distribution"* (**'Consultation Paper'**).[1] The Consultation Paper is designed to implement the mandate of the *Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025* (**'SBSR Act'**),[2] by proposing reforms to insurance distribution costs, market conduct, and transparency.

This client update focuses specifically on the Consultation Paper's treatment of dark patterns and the broader technology and AI-related implications for the insurance sector.

Key Obligations Proposed under the Consultation Paper

The concept of **"dark patterns"** was formally introduced into Indian law through the *Guidelines for Prevention and Regulation of Dark Patterns, 2023* (**'Dark Pattern Guidelines'**), issued by the Central Consumer Protection Authority (**'CCPA'**) under Section 18 of the *Consumer Protection Act, 2019* (**'CPA'**).[3] Critically, the Dark Pattern Guidelines apply to all platforms systematically offering goods or services in India, advertisers, and sellers, and are expressly stated to be in addition to, and not in derogation of, any other law.[4]

Dark patterns may take the form of false urgency, basket sneaking, confirm shaming, forced action, subscription traps, interface interference, bait and switch, drip pricing, disguised advertisements, nagging, trick questions, SaaS billing, and rogue malware.[5] The proliferation of AI-driven interfaces, such as personalized recommendation engines, chatbot-led sales funnels, and dynamic pricing algorithms, creates new vectors for dark pattern practices in the insurance sector. AI systems can, by design or default, deploy interface interference (i.e. highlighting certain products while obscuring others), create false urgency (i.e. algorithmically generated countdown timers), or commit confirm shaming (i.e. emotionally manipulative prompts discouraging policy cancellation). Therefore, an understanding of dark patterns has become integral for businesses.

1. Definition of Dark Patterns

The Consultation Paper adopts the definition of "dark patterns" from the CCPA's Dark Pattern Guidelines verbatim.[6] The Consultation Paper does not enumerate an exhaustive list of insurance-specific dark patterns. It remains to be seen whether IRDAI will, in the final regulations, provide a schedule of sector-specific dark patterns, akin to the CCPA's Annexure 1, or rely on the broad definitional catch-all.

Beyond this definitional adoption, the Consultation Paper identifies a sector-specific form of dark pattern, i.e. the prevalent practice of insurer and distributor websites requiring users

1 The Consultation Paper has been organised in two parts. IRDAI, 'Recalibrating Economics of Insurance Distribution: Consultation Paper on Distribution Reforms – Part 1 and Part 2', https://irdai.gov.in/document-detail?documentId=9852848.
2 Sabka Bima Sabki Raksha (Amendment of Insurance Laws) Act, 2025.
3 Central Consumer Protection Authority, 'Guidelines for Prevention and Regulation of Dark Patterns, 2023', https://egazette.gov.in/WriteReadData/2023/250339.pdf.
4 Ibid guideline 6.
5 Annexure 1, Ibid 3.
6 Consultation Paper (n 1) s 19. The term "dark patterns" has been defined as *"any practices or deceptive design pattern using user interface or user experience interactions on any platform that is 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."*

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to submit personal details before granting access to product features and pricing information, which the Consultation Paper characterizes as a contravention of the existing Dark Pattern Guidelines. This characterisation, however, requires careful consideration.

Collection of Personal Information as a Dark Pattern

A dark pattern, as defined under Clause 2(e) of the Dark Pattern Guidelines, is a practice "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**."

To aid the interpretation of what constitutes a dark pattern, the Dark Pattern Guidelines provide a list of specified dark patterns. A review of these suggests that the closest identifiable pattern to collection of personal information is 'forced action', a pattern wherein users are forced to share personal information to buy or subscribe to a product or service.[7] Notably, one of the key elements of 'forced action' is that the disclosure of personal information is tied to a purchase or subscription.[8] This raises a fundamental question: where a platform provides a comparative analysis of insurance plans across multiple insurers, and the sharing of personal information is not linked to any sale or subscription, can the practice be classified as 'forced action'?

'Forced Action' as a dark pattern has also been examined by the CCPA in *In the Matter of Use of Dark Patterns by PhysicsWallah Limited* ('**PhysicsWallah Order**').[9] In that matter, PhysicsWallah required users to provide personal information, such as their mobile number and email address, before they could access courses advertised as "free". The CCPA observed that the requirement of mandatory registration and disclosure of personal information to access content advertised as "free" appeared disproportionate and not reasonably connected with the stated objective of providing personalised educational services.[10] The CCPA further observed that the content was presented as "free" while access depended on compulsory disclosure of personal information, without adequate disclosure of necessity for and purpose of such collection. Accordingly, the CCPA held that the practice of compelled disclosure of personal information by PhysicsWallah in lieu of access to free courses amounted to 'forced action'.

The CCPA assessed the practice broadly on two aspects, *i.e.* (i) proportionality of the personal data collected, and (ii) nature and adequacy of disclosures made to users. Under the proportionality test, there should be a reasonable nexus between the personal information collected and the service.[11] Additionally, where sufficient disclosures are made regarding the collection of personal information and there is no allied misrepresentation, the collection may not meet the requirements of 'forced action'.[12]

The PhysicsWallah Order illustrates the factors involved in assessing whether the collection of personal information constitutes a dark pattern. These factors include the disclosures made by the platform while collecting personal data, and the nexus between the data collected and the purpose for which it has been collected. These factors are context-specific. We, therefore, recommend that businesses conduct an independent assessment of their data collection practices to assess alignment with the Dark Pattern Guidelines.

2. Proposed Prohibition on Dark Patterns

The Consultation Paper mandates disclosure of product features, pricing, and quality of all products *"without dark patterns"*.[13] This prohibition is stated in broad terms and would apply to all insurers and Insurance Distribution Entities (**'IDEs'**).

Given the above, insurers and IDEs are advised to deploy labels, service-related notices, or additional materials on their platforms with due consideration to the proposed prohibition. The boxes below, accordingly, provide an indicative checklist that they may follow.

7 Guidelines for Prevention and Regulation of Dark Patterns, 2023, *"Forced action" mean forcing a user into taking an action that would require the user to buy any additional goods or subscribe or sign up for an unrelated service or share personal information in order to buy or subscribe to the product or service originally intended by the user.*

8 Ibid 7.

9 In the matter of Use of dark patterns resulting in unfair trade practice, misleading advertisement, and violation of consumer right by PhysicsWallah Limited, Central Consumer Protection Authority, June 1 2026, Case No. CCPA-2/94/2025-CCPA.

10 Para 41, Ibid 9.

11 Dark Pattern Guidelines do not classify the requisition of personal data as a dark pattern per se. Rather, they target the collection of personal information that is unrelated to or unnecessary for the service the user originally intended to access, Illustration d, Forced Action, Guidelines for Prevention and Regulation of Dark Patterns, 2023.

12 In the matter of Use of dark patterns resulting in unfair trade practice, misleading advertisement, and violation of consumer right by PhysicsWallah Limited, Central Consumer Protection Authority, June 1 2026, Case No. CCPA-2/94/2025-CCPA.

13 ibid s 1, Strategic Objective 9.

Box 1: Dos for Insurers and IDEs

- Provide a notice defining the purpose while collecting contact details.
- Make the cancellation and free-look period process as easy and accessible as the purchase process.
- Provide an easy and simple process for customers to unsubscribe from promotional communications.
- Obtain clear, affirmative, and explicit consent from customers before adding any product, add-on cover, or service to their purchase.

Box 2: Don'ts for Insurers and IDEs

- Don't use pre-ticked checkboxes to add supplementary riders, add-ons, or services to the customer's purchase.
- Don't engage in repeated and persistent interactions through pop-ups, requests, notifications, or interruptions to push users towards a purchase.
- Don't add language that guilts or shames users.

Please feel free to address any further questions or request for advice to:

Dr. Shardul S. Shroff
Executive Chairman
shardul.shroff@AMSShardul.com

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