



Office of Acting Chairwoman
Rebecca Kelly Slaughter

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Opening Remarks of Acting Chairwoman Rebecca Kelly Slaughter
at “Bringing Dark Patterns to Light” Workshop**

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Good morning, everyone! On behalf of the agency and my fellow Commissioners, I’d like to welcome you all to today’s virtual workshop, “Bringing Dark Patterns to Light.” As the title suggests, today we’ll be examining – through a series of presentations and panel discussions – so-called digital “dark patterns,” user interface designs that manipulate consumers into taking unintended actions that may not be in their interests. Dark patterns are part of a larger system of deceptive and manipulative practices that we see growing all too rapidly in the commercial digital surveillance economy.

We’re fortunate today to hear from a highly distinguished group of consumer advocates, academics, and designers, and also from Senator Mark Warner of Virginia and Representative Lisa Blunt Rochester of Delaware, who have introduced legislation in the Senate and House respectively that would further empower the FTC to address the harms of dark patterns. I am pleased to welcome all of you.

We know that in today’s digital marketplace, data is currency. And we increasingly see companies using dark patterns to manipulate people into giving up their personal data, which is then sold, aggregated, analyzed, and used to target advertising and manipulate future purchases. This conduct can be particularly pernicious when orchestrated by large platforms, who may use data collected through dark patterns to enhance their own market power.

We also see dark patterns used more directly to manipulate consumer behavior. Recently, the FTC has sued companies for forcing people to navigate a maze of screens and choices to cancel negative option subscription plans (*ABCmouse*), using inconspicuous dropdown links and autoscroll features to hide the material terms of virtual rent-to-own transactions (*Progressive Leasing*), and sneaking additional, unwanted products into people’s carts without their knowledge or consent (*AH Media Group*) – dark patterns all.

Whether it is expanded data collection or specific behavioral manipulation, the motivation behind the use of dark patterns is often the same: enhance the company’s bottom line and market position in ways that may be harmful to its users or contrary to their intent.

We need to understand the technologies, and information asymmetries that are driving the use of dark patterns, the myriad harms that dark patterns can cause to consumers and competition, and



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consumers' ability or inability to detect and avoid these harms. Fundamental to understanding all of these details will be an analysis of the business incentives that drive the development and deployment of deceptive and manipulative technological tools.

It's also crucial that we look at the impact that dark patterns are having on different communities, especially those that have been, and continue to be, disadvantaged and marginalized in both the market and our broader society. Separately, we must consider how dark patterns affect people who may potentially be more susceptible to certain persuasive design elements due to still developing brains – in the case of children – or a lack of familiarity and exposure to digital technologies – an issue for some older folks.

Finally, although the FTC can and should continue to aggressively pursue companies that use deceptive, unfair, or otherwise unlawful design tactics, it's important that we consider the challenges that the scale, sophistication, and personalization of dark patterns pose to our enforcement efforts: How can the FTC best target and prioritize our enforcement resources? Could our efforts be strengthened by the adoption of additional rules, guidance, or other policies? In grappling with these questions, the FTC has worked and will continue to work closely with our state and international partners and the advocacy community, who also are doing important work in this area, as you'll hear later today.

And we are of course grateful to the leadership of elected officials like Senator Warner and Congresswoman Blunt Rochester, who are working hard to ensure that our statutory framework keeps pace with—and enables enforcement efforts to keep pace with—swiftly moving developments in the market.

My hope is that today's workshop will help the FTC chart a path forward on these pressing questions. The time for us to get this right is now, as design interface is being fully optimized. We need comprehensive understanding and a comprehensive plan of action: if enforcement and regulation are unable to check the power of unsupervised algorithms, consumers will face “deception by design.”

And for companies who may be listening today, I have this to say: if you have to resort to design tricks to obtain consumers' consent to tracking or charges, you ought to think twice about your business model and how your design choices align with principles of honesty and fairness.

With that, I want to welcome Senator Warner, who I understand will be delivering his remarks by video.