



Office of Commissioner
Rebecca Kelly Slaughter

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

STATEMENT OF COMMISSIONER REBECCA KELLY SLAUGHTER
*Regarding Bureau of Consumer Protection Staff Report:
“Bringing Dark Patterns to Light”*

In the spring of 2021, during my tenure as Acting Chair, the FTC hosted a public workshop on digital dark patterns and explored how these manipulative tactics can obscure, subvert, or impair consumer autonomy and decision-making. The Bureau of Consumer Protection staff have prepared a report that synthesizes what we have learned from the workshop, our cases, and relevant research, and summarizes lessons for businesses. The report is also accompanied by a helpful appendix that seeks to identify and explain a number of common dark patterns—a helpful catalogue for consumer groups and reporters, researchers, legislators and businesses looking to clean up their act.

I want to highlight one use of dark patterns that is particularly troubling to me—digital dark patterns designed to manipulate kids and teens. The report does an excellent job of outlining the types of child-directed dark patterns at work in the FTC’s in-app purchase actions against Amazon, Apple, and Google. These types of interfaces lured kids into making purchases through play, such as enticing kids to rack up virtual gold or stars, while actually incurring charges in real life.

We know, however, that the dark patterns directed at our kids and teens also operate on a much larger scale. For example, in connection with the dark patterns workshop, Common Sense Media proffered that one of the most problematic categories of dark patterns are those designed to extend engagement, because they can make it difficult for young people to find balance and time away from devices.¹ Common Sense Media identifies autoplay features as an example of a potentially unfair manipulative design when directed at children.² Campaign for a Commercial-Free Childhood and Center for Digital Democracy also submitted comments contending that a variety of dark patterns and manipulative design techniques aimed at children and teens constitute unfair or deceptive practices in violation of the FTC Act—from “endless treadmill” gaming features to purposeful obfuscation of the real-world value of in-game currency.³

I strongly support use of our authority to target unlawful manipulative dark patterns aimed at kids and teens. And I want to call attention to the fact that the Commission seeks comment on the types of manipulative techniques aimed at kids and teens in our recently

¹ Common Sense Media, Pub. Cmt. No.0019-0102, *In re Dark Patterns Workshop*, <https://www.regulations.gov/comment/FTC-2021-0019-0102>

² *Id.*

³ Campaign for a Commercial-Free Childhood and The Center for Digital Democracy, Public Comment Submitted to FTC on Dark Patterns Issues, FTC-2021-0019-0108, at 1, 18-19, 30, available at <https://fairplayforkids.org/wp-content/uploads/2021/05/darkpatterns.pdf>

announced Advance Notice of Proposed Rulemaking on Commercial Surveillance and Data Security.⁴ Specifically, the Commission invites comment on the following:

- Do techniques that manipulate consumers into prolonging online activity (e.g., video autoplay, infinite or endless scroll, quantified public popularity) facilitate commercial surveillance of children and teenagers? If so, how?
- In which circumstances, if any, are a company's use of those techniques on children and teenagers an unfair practice? For example, is it an unfair or deceptive practice when a company uses these techniques despite evidence or research linking them to clinical depression, anxiety, eating disorders, or suicidal ideation among children and teenagers?
- [A]re children and teenagers more likely than adults to be manipulated by practices designed to encourage the sharing of personal information?

Dark patterns by design can have a profound impact on kids and teens that we are only just beginning to fully realize. I want to encourage all stakeholders with information or comments related to the impact of dark patterns and manipulative design on kids and teens to file comments in response to our Commercial Surveillance and Data Security ANPR on or before October 21, 2022.

Thanks again to the Bureau of Consumer Protection for convening an illuminating workshop and preparing this excellent report--this was truly a Bureau-wide collaboration with particular leadership from the Division of Financial Practices.

⁴ See Docket, [Request for Public Comment on Trade Regulation Rule on Commercial Surveillance and Data Security 16 C.F.R.] (August 22, 2022) <https://www.federalregister.gov/d/2022-17752>