Deceptive Patterns
## in Consent and Data Privacy

What are Deceptive Patterns?

The use of manipulative or deceitful design practices to force or trick users into making choices that they wouldn't otherwise make. It's common for entities to use multiple deceptive patterns simultaneously to create an irresistible compounding effect.

Deceptive patterns are found outside data privacy in various industries and contexts and are prevalent on mobile apps. These can look like free trials that lead to a recurring subscription fee, online advertisements that look like editorial content, or processes that make it hard to change your account or cancel your subscription.

Deceptive Patterns in Regulations

When deceptive patterns are used to collect, sell, share, or process an individual's information, this can cause harm to individuals and the organization may be violating a privacy law. Privacy regulations such as the EU General Data Protection Act (GDPR), California Privacy Rights Act (CPRA), and The FTC Act prohibit the use of deceptive patterns even if the regulation itself doesn't refer to the action as a "deceptive pattern."

The CPRA defines a deceptive pattern as "a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy." The FTC Act empowers the commission to "prevent unfair or deceptive acts or practices in or affecting commerce... prescribe rules defining with specificity acts or practices that are unfair or deceptive; and establishing requirements designed to prevent such acts or practices..."
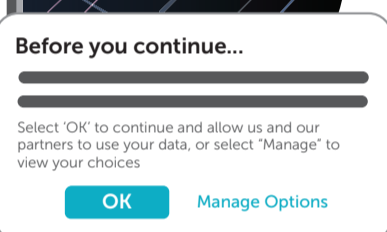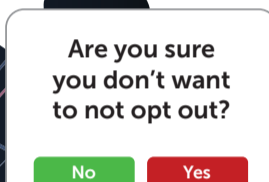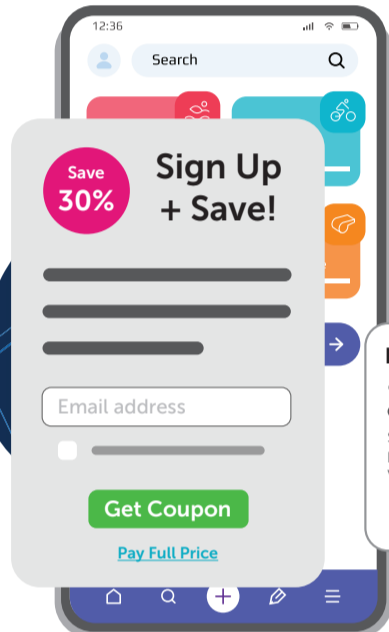
Overloading
Overwhelming users with a large quantity of requests, information, options, or possibilities to prompt them to share more data

Skipping
Designing the interface or user experience in a way that causes users to forget (or fail to consider) all or certain data protection aspects of a decision
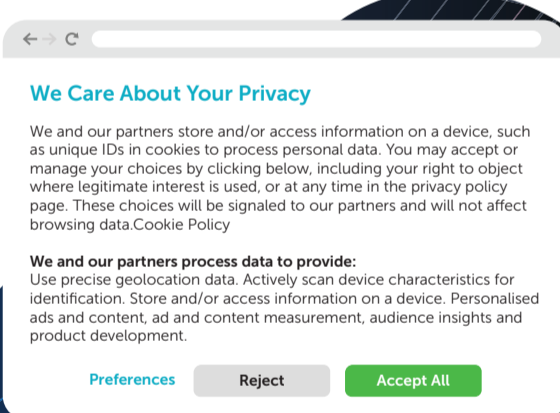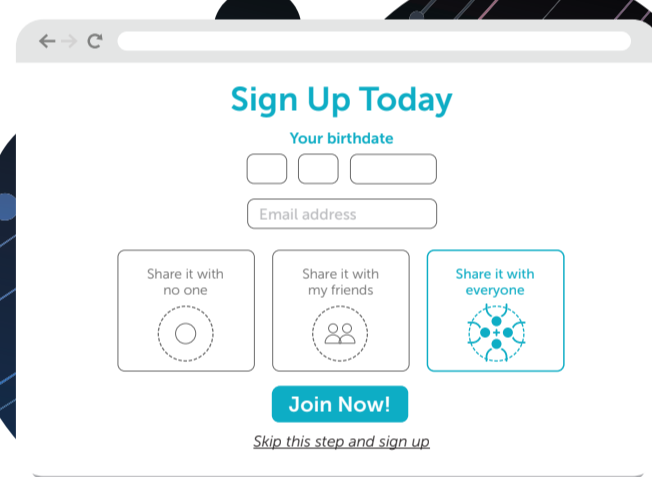
Misleading Buttons
Asymmetrical privacy choices, such as requiring more steps to opt out of sharing personal information in comparison to opting in or banners that provide unequal choices (e.g., "Accept all cookies" and "Preferences").
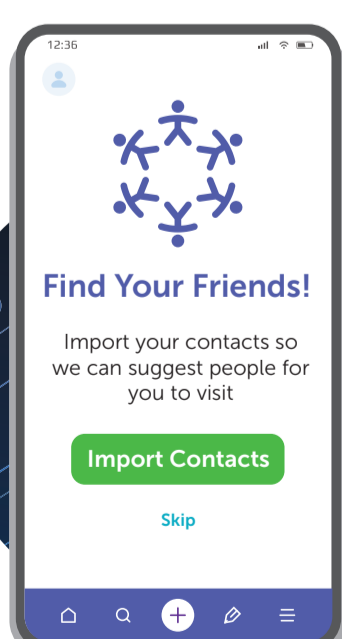
Pre-Ticked Checkboxes
Language that is difficult to understand or confusing (e.g., using double negatives or unintuitive placement of buttons).
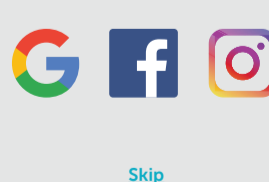
Requiring Other Application Information
An app that requires users to import their contacts or connect their social media account information to function.

Avoid deceptive patterns and build consumer trust

Talk to an Expert