

March 18, 2025

IMPLEMENTATION OF THE AMENDED E-COMMERCE ACT AND STRENGTHENED REGULATIONS ON DARK PATTERNS

The Amendment to the Act on the Consumer Protection in Electronic Commerce (the “**E-Commerce Act**”), which includes provisions regulating 6 types of ‘dark patterns’ — deceptive user interface (UI) designs that mislead consumers — came into effect on February 14, 2025. With the implementation of the amended E-Commerce Act, dark pattern behaviors are now regulated under the new framework.

We provide below a summary of the amendments.

I. SIX TYPES OF DARK PATTERNS

A. Hidden Subscription Renewals

“Hidden subscription renewals” refers to practices that prevent consumers from noticing when subscription fees increase or when free trials convert to paid services. Under the amended E-Commerce Act, businesses engaged in e-commerce must obtain consumers’ consent (which consent must be explicit according to the KFTC’s position), if the price of a subscription-based product or service increases, or if a free trial transitions into a paid subscription. This consent must be obtained within the 30-day period leading up to the price increase or transition. For example, if a consumer signs up for a one-month free trial on May 1, which automatically converts into a paid subscription on June 1, the business must obtain the consumer’s consent between May 2 and May 31, i.e. within 30 days before the payment date of June 1. Additionally, businesses must inform consumers of the conditions, procedures, and effects of canceling or terminating the price increase or subscription transition. This requirement applies even if the consumer initially agreed to the price increase or conversion at the time of executing the original contract. (Art. 13(6) of the E-Commerce Act, Art. 20-2 of the Enforcement Decree of the Act)

B. Gradual Disclosure of Costs

“Gradual disclosure of costs” refers to practices where businesses advertise or display only a portion of the total cost¹ required for a consumer to purchase or use a product or service.

However, businesses may be exempt from this requirement under the following circumstances: (i) there is a justifiable ground for not displaying the total cost, and (ii) the business explicitly discloses the excluded cost items and the reasons for their exclusion on the initial page. If display space is limited, however, the reasons for exclusion may be provided on a directly linked page. A “justifiable ground” may be recognized if the total

¹ All costs that consumers must pay in order to purchase or use a product, including value-added tax (VAT), other applicable taxes and charges, as well as shipping fees and installation fees, are included in the total price.

price varies depending on the options selected by the consumer, making it difficult for the seller to determine the total price in advance. (Art. 21-2(1), Subparagraph 1 of the E-Commerce Act, Art. 11-4 of the Enforcement Rules of the Act)

C. Pre-selection of Purchase Options

“Pre-selection of purchase options” refers to practices where businesses solicit consumers to make additional purchases during the product purchasing process, sign-up process, or contract execution process by having other products pre-selected. Pre-selected options subject to regulation are limited to those related to an offer to purchase, sign up, or execute an agreement. As a result, businesses are prohibited from engaging in practices such as pre-selecting a subscription plan with higher fees when offering multiple subscription options to consumers. (Art. 21-2(1), Subparagraph 2 of the E-Commerce Act)

D. False Hierarchies

“False hierarchies” refers to practices where businesses mislead consumers by presenting options in a visually distinct manner—such as through differences in size, shape, or color—that gives the impression that a particular option is preferable. Unlawful false hierarchies are presumed to exist when: (i) there is a risk that consumers may mistakenly believe a particular option is the only available choice, or (ii) consumers may be misled into thinking they must first select a particular option as a prerequisite to proceed. (Art. 21-2(1), Subparagraph 3 of the E-Commerce Act)

E. Obstruction of Cancellation or Withdrawal

“Obstruction of cancellation or withdrawal” refers to practices where businesses obstruct consumers from canceling, withdrawing, or terminating a transaction. Obstruction of cancellation or withdrawal may be recognized where: (i) the cancellation, withdrawal, or termination process is designed more complicated than the purchasing process, sign-up process, or contract execution process—including UI designs that make cancellation or withdrawal options difficult to find; or (ii) consumers are required to use a different method for cancellation, withdrawal, or termination than the one used for purchasing goods or services, signing up for membership, or executing a contract. (Art. 21-2(1), Subparagraph 4 of the E-Commerce Act)

F. Repeated Interference

“Repeated interference” refers to practices where businesses repeatedly ask consumers—through means such as pop-ups—to modify choices they have already made, such as refusing to receive marketing information or rejecting the use and disclosure of their personal information. This prohibition aims to prevent businesses from unduly pressuring consumers by repeatedly making the same request. However, an exception applies if consumers are given the option to decline further requests for at least 7 days, such as a “Do not show again for 7 days” option. (Art. 21-2(1), Subparagraph 5 of the E-Commerce Act)

II. IMPLICATIONS AND TAKEAWAYS

With the implementation of the amended E-Commerce Act, the KFTC is expected to prioritize enforcing regulations on dark patterns. Companies are advised to comply not only with the amended E-Commerce Act but also with the Telecommunications Business Act, as both share similar regulatory frameworks. Accordingly, companies should proactively assess potential risks through internal reviews, preemptively adjust their UI designs, or develop appropriate measures to address those risks. Since these regulations are being implemented for the first time, companies should closely monitor the KFTC's approach to regulating dark patterns.

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