

The background features a dark blue gradient with a starry space pattern. Overlaid on this are several technical diagrams, including circular gauges with numerical scales (140, 150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260) and various circular patterns with arrows indicating direction or flow.

THE EVOLVING LANDSCAPE OF DARK PATTERNS IN THE UNITED STATES

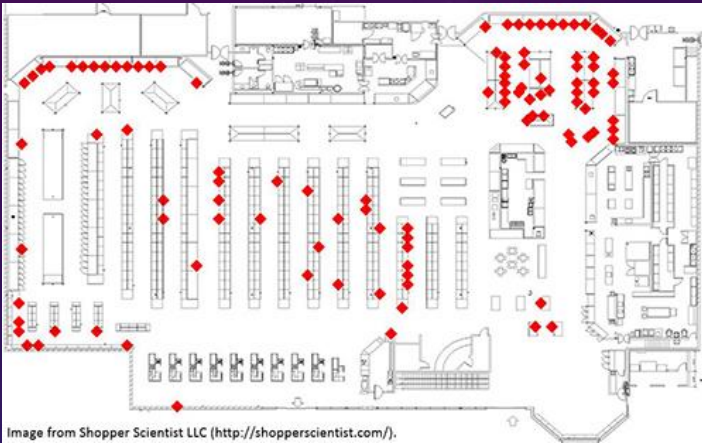
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THE TRADITIONAL TREATMENT OF PERSUASION/MANIPULATION

- Companies are allowed to engage in “puffery,” meaning that they can present an outlandish claim if people wouldn’t reasonably rely on it.
- In each instance, consumers are supposed to be skeptical of a company’s assertions.
- But the purpose is to “persuade” people to buy a product or service
- So when does persuasion become deception or manipulation?



U.S. LAW WILL OFTEN PERMIT SUBTLE MANIPULATIONS IN PHYSICAL DESIGNS AND PRESENTATIONS TOO



THE MORE YOU
- **BUY** -
THE MORE YOU
SAVE!



DARK PATTERNS: REGULATORY PROBLEMS UNDER U.S. LAW

- Antitrust:
 - Potential: Companies can use dark patterns to 1) exclude competition, 2) maintain a monopoly, and 3) charge supracompetitive prices.
 - Problems:
 - U.S. Antitrust Law errs against condemning product designs and innovative activities
 - A fear is that antitrust might chill the innovation and development of superior products
 - Antitrust courts are ill-equipped to assess the merits of a product design or innovation
 - An anti-consumer company should naturally incur punishment in the free market.
- Consumer Protection Laws:
 - An unfamiliarity with dark patterns until recently
 - An assumption that people can “rationally” avoid dark patterns
 - The FTC released “Bringing Dark Patterns to the Light” in 2022

BENIGN VERSUS TROUBLESOME DARK PATTERNS?

1. Delta

② Trip Protection

Add protection for your trip from Atlanta to Chicago, and everywhere in between.

* Required: Select Yes or No to continue

Yes, protect my trip for \$32.95 total. RECOMMENDED

- Trip Cancellation & Interruption:** Get back up to 100% of your trip cost if you have to cancel your trip or come home early due to a covered reason.
- Travel Delay:** Get reimbursed for eligible expenses like meals and lodging due to a covered travel delay.
- Baggage Protection:** Get compensation if you have a covered bag delay or your belongings are lost, stolen, or damaged throughout your trip.
- 24/7 Travel Assistance:** Get expert help navigating travel mishaps and emergencies to keep your trip on track.

No, do not protect my \$506.96 trip.

Popular Choice: 14,348 customers protected their trip yesterday

* Required: Select YES or NO to continue

Protect my trip for \$24.09 total.

Are you sure?
It's not too late to protect your trip before you checkout.

2. Doxo

Microsoft Bing

Labcorp Payment online bill pay

ALL CHAT SHOPPING IMAGES VIDEOS MAPS MORE

About 6,200,000 results Any time ▾

[Labcorp | Make Your Payment Online](https://www.doxo.com/pay/labcorp)
<https://www.doxo.com/pay/labcorp> - Start Now

Ad Submit Your Labcorp Payment Online with doxo.

Explore content from labcorp.com

Contact Us - Patient Bill Pay | Labcorp

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See more

Patient Bill Pay | Labcorp

<https://www.labcorp.com/patients/bill-pay>

Web If you receive a bill from Labcorp, you may make a payment using one of the following methods: Website: Visit the Bill Pay section, available 24 hours a day, 7 days a week. ...

Guest Payment & Insuran... Patient Billing Support
Start here to pay your bill or update your Labcorp PO Box 2240 Burlington, NC

&

Review and Send Your Payment

Total charge **\$87.31**

Includes \$3.99 Payment Delivery Fee

Delivery by: April 23

VISA Credit Card

doxoPLUS Subscription
Save \$3.99 on this payment with doxoPLUS
doxoPLUS subscribers pay all their bills without payment delivery fees. Start today for \$5.99 per month (plus tax where applicable). Cancel anytime. By selecting the box above you agree to the doxoPLUS Terms of Service.

Send Payment

Show payment details

(A third party, Doxo, creates an appearance that its interface is another company's official payment system. And it quietly discloses a "delivery fee," which isn't required on the official payment platform)

Dilemma: What does a method of presentation cross the line into illegal?

INITIAL ACTIONS BY U.S. FTC

1. LendEDU (2020): Allegedly ordered rankings by how much money lenders paid to LendEDU. Then, LendEDU told consumers that the ratings of lenders were based on “objective” measures and stats. LendEDU persuaded Lenders to pay for better “positions,” asserting that placement entices consumers. The design generated false beliefs. The parties settled for \$350,000.

2. LendingClub (2021): It advertised “no hidden fees, yet hid fees about loans behind “tooltip buttons” that few consumers clicked. This violated by the FTC Act by hiding or delaying salient information.

This is essentially a practice called “drip pricing” where consumers receive information at later times, interfering with comparison shopping

Lender	Fixed APR	Variable APR	Loan Terms (Years)
SoFi	3.25% - 7.13%	2.89% - 7.38%	5, 7, 10, 15 or 20
earnest	3.25% - 6.32%	2.57% - 5.87%	5 - 20
LendKey	3.15% - 8.12%	2.56% - 7.94%	5, 7, 10, 15 or 20

1. SoFi (5 stars)
Refinance and consolidate both federal and private student loans.
Rates as low as 2.89% for variable rates.
Rates as low as 3.25% for fixed rates.
5, 7, 10, 15, 20 year repayment terms.
No application fees, origination fees, or pre-payment fees.
Unemployment protection is available.
Easy application process.

2. Earnest (4 stars)
Refinance and consolidate both federal and private student loans.
3 - 20 year repayment terms.
Variable rates as low as 2.57%.
Fixed rates as low as 3.25%.
Data driven customer evaluation helps you get qualified.
Zero application fees, origination fees, or pre-payment fees.

3. LendKey (5 stars)
You deserve a better student loan.
Average Client saves \$10,607.

LendingClub | How it Works | Privacy | Sign Out | Help

Excellent! You Qualify for a Credit Card Refinance Loan

We have a great rate for you:

- Loan Amount: \$10,000
- Monthly Payment: \$308.73 (36 payments)
- Interest Rate: 6.99%
- APR: 9.41%

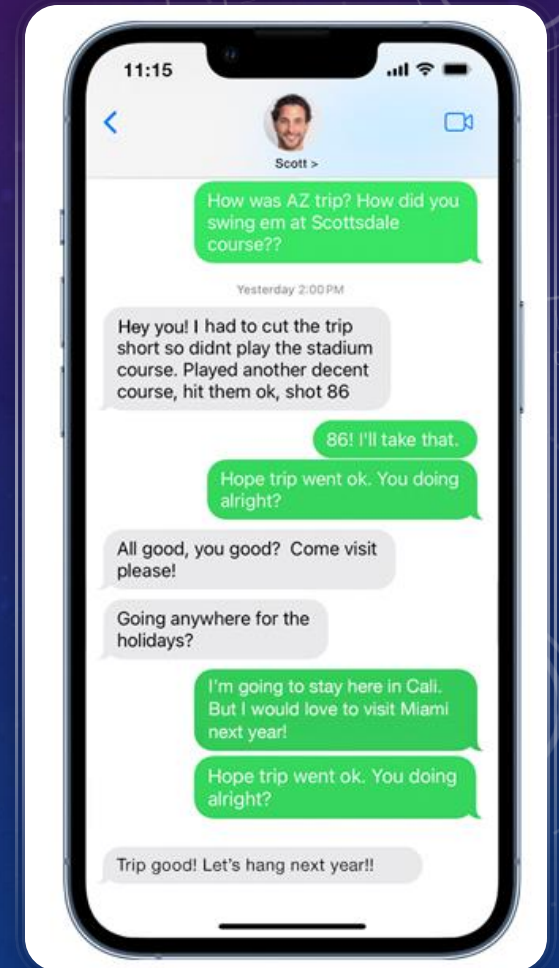
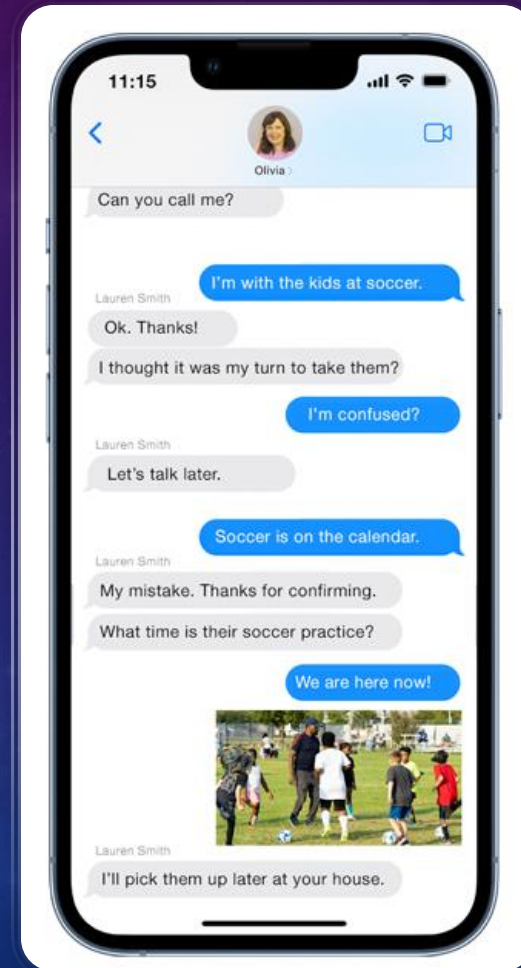
Get Loan

APR stands for Annual Percentage Rate, and is a measure of the total cost of credit as an annual rate. The APR is comprised of the annual interest you pay at a rate of 6.99% - which is ultimately paid each month to the investors who enable your loan - and a one-time origination fee of 3.5% (\$350.00) that is collected out of your loan proceeds.

Fixed interest rate | No prepayment penalties | No hidden fees

RECENT CASES: APPLE

- The Department of Justice alleged that Apple sought to monopolize the market in violation of antitrust law by, in part, degrading the messaging of non-iPhones
- This included turning the messages of non-iPhones green, which is less appealing than iMessage's blue.
- DOJ: "Many non-iPhone users also experience social stigma, exclusion, and blame for 'breaking' chats where other participants own iPhones. This effect is particularly powerful for certain demographics, like teenagers—where the iPhone's share is 85 percent, according to one survey. This social pressure reinforces switching costs and drives users to continue buying iPhones—solidifying Apple's smartphone dominance..."



RECENT CASES: AMAZON'S "ILIAD"

- Named after Homer's epic poem, which occurred in 24 books about a ten-year war
- The FTC alleged in 2024 that the process to enroll in Amazon's Prime is simple, but cancellation is made difficult (at least 5 pages with plenty of "exit ramps").
- The "Roach Motel"

Pause your Prime membership:

⚠️ **Items tied to your Prime membership will be affected if you pause your membership.**

1. By pausing, you will no longer be eligible for your unclaimed Prime exclusive offers. [Click here to see your offers.](#)

Pause on September 02, 2022

Your benefits access will continue until September 02, 2022. After that date, your billing and benefits will be paused, and you will no longer be charged for your Prime membership. Use the quick-resume function anytime to regain access to your Prime benefits. [Learn More.](#)

Pause on September 02, 2022

Cancel your Prime membership:

⚠️ **Items tied to your Prime membership will be affected if you cancel your membership.**

1. By cancelling, you will no longer be eligible for your unclaimed Prime exclusive offers.

End on September 02, 2022

Your benefits will continue until September 02, 2022, after which your card will not be charged.

End on September 02, 2022

OR

End Now

Your benefits will end immediately and you will be refunded \$14.99 for the remaining period of your membership.

End Now

The screenshot shows the Amazon Prime membership management interface. At the top, there are navigation tabs for various categories like Health & Household, Coupons, Pet Supplies, Amazon Basics, Amazon Home, Beauty & Personal Care, Pharmacy, Home Improvement, Smart Home, Amazon Launchpad, Amazon Business, Groceries, and Gift card upon n. Below this, the user's profile is shown with a Prime Plan of Monthly \$14.99 and a Renewal Date of September 2, 2022. A central banner says "Hello, [Name], Check out what's included with your Prime membership" with a "See all your Prime benefits" button. Below this is a section for "Your Prime Exclusive Rewards" with a "See more w" button. On the right side, there are several management options: "Manage Membership" (Update, cancel and more), "Membership Sharing" (Share your benefits, Manage your household), "Remind me before renewing" (Send a reminder on August 30, 2022, 3 days before my renewal date), and "End Membership" (By ending your membership you will lose access to your Prime benefits, End membership).

You still have **7 days left** to enjoy your Prime benefits until the next billing cycle

Your benefit usage PRIME BENEFITS USED: PAST 12 MONTHS | PAST 30 DAYS

- 0 Packages shipped for free with Prime Delivery. Start shopping today's deals!
- 0 Movies and TV shows watched with Prime Video. You can start watching videos by [clicking here!](#)
- 0 Songs listened to with Amazon Music Prime. Start listening now!

Does not include Add-On subscription usage from Amazon Music Unlimited Plan, and Prime Video Rentals or channel subscriptions.

Shipping and Delivery → Amazon Prime →

End Your Amazon Prime Membership

You can end your Prime membership by selecting the End Membership button on this page.

Take Action Paid members who haven't used their benefits are eligible for a full refund of the current membership period. We'll process the refund in three to five business days.

End Your Prime Membership

- Additional subscriptions tied to your membership won't renew once your Prime membership ends.
- If your Prime membership is associated with a service you receive through another company (such as Sprint), contact that company to manage your Prime membership.
- Customers who sign up for Amazon Prime using the Android mobile shopping app must manage their subscription through Google Subscription services.

To end your Amazon Prime membership:

1. Go to your Prime membership.
2. Select **Update, Cancel, and more**, and follow the on-screen instructions.

Remind Me Later

Keep my benefits and remind me 3 days before my membership renews

Continue To Cancel

Keep My Benefits

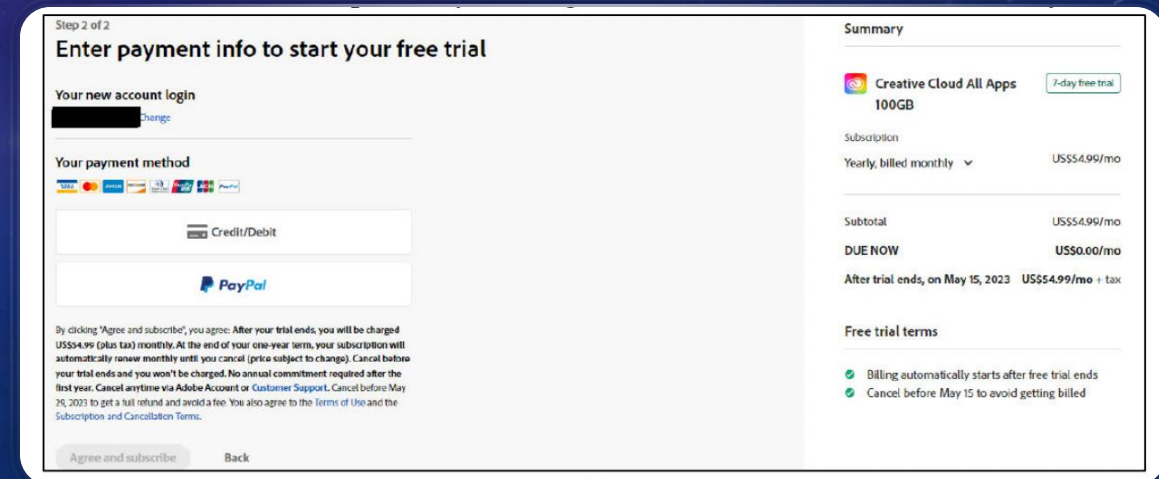
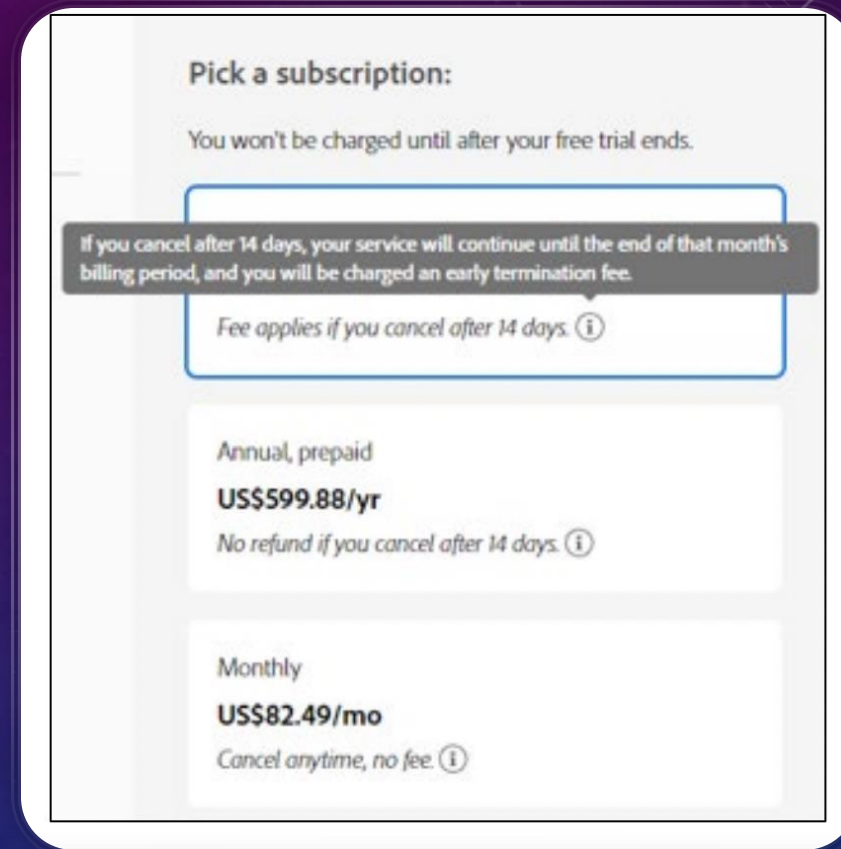
Continue enjoying your delivery benefit, Prime Video and many other benefits.

⚠️ **Items tied to your Prime membership will be affected if you cancel your membership.**

1. By cancelling, you will no longer be eligible for your unclaimed Prime exclusive offers.

RECENT CASES: ADOBE

- The FTC alleged in 2024 that Adobe disguises fees when consumers sign up for the program.
- A consumer enticed by a “free trial” must hover over the tooltip button to learn of an “early termination fee”
- The plan doesn’t initially disclose the year-long commitment.
- The tooltip lacks any information of the fee’s price
- The small print on the final payment screen provides the only language of an “annual commitment” (and lacks mention of a “fee”



THE FUTURE: AI AND MORE

- 1. AI Generated websites/interfaces have “organically” implemented dark patterns
- 2. AI-powered consumer “chat boxes” can employ dark patterns
- 3. AI “bots” can appear human and thus recommend products and manipulate consumers on third party platforms such as message forums.

