

**GOVERNMENT OF INDIA
MINISTRY OF COMMERCE & INDUSTRY
DEPARTMENT FOR PROMOTION OF INDUSTRY AND INTERNAL TRADE
LOK SABHA**

**UNSTARRED QUESTION NO. 2975.
TO BE ANSWERED ON WEDNESDAY, THE 20TH DECEMBER, 2023.**

REPORT OF ADVERTISING STANDARDS COUNCIL OF INDIA

**2975. SHRI MANNE SRINIVAS REDDY:
SHRI Y.S. AVINASH REDDY:**

Will the Minister of **COMMERCE AND INDUSTRY** be pleased to state:

वाणिज्य एवं उद्योग मंत्री

- (a) whether it is a fact that an Advertising Standards Council of India report in 2021 estimated that over 50 per cent of e-commerce sites used dark patterns to sell their products and amassed profits that are often larger than the Gross Domestic Product (GDP) of several nations combined and country's efforts so far to regulate the sector have been confined to preventing tax leakages, protecting the interests of brick, mortar merchants and the newfound focus on consumers;
- (b) if so, the facts thereof;
- (c) whether there is a need to safeguard privacy in relation to personal data on e-commerce sites and social media platforms, so as to boost user confidence and ensure a safe, secure, free and fair digital environment; and
- (d) if so, the details thereof along with the present status in this regard and corrective steps being taken and the results yielded as on date?

ANSWER

**वाणिज्य एवं उद्योग मंत्रालय में राज्य मंत्री (श्री सोम प्रकाश)
THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE & INDUSTRY
(SHRI SOM PARKASH)**

- (a) & (b):** Dark patterns involve using design and choice architecture to deceive, coerce, or influence consumers into making choices that are not in their best interest. Dark patterns encompass a wide range of manipulative practices such as drip pricing, disguised advertisement, bait and switch, false urgency etc.

Such practices fall under the category of "unfair trade practices" as defined under the Consumer Protection Act, 2019. The Central Consumer Protection Authority, in exercise of the powers conferred by Section 18 of the Consumer Protection Act, 2019, has issued "Guidelines for Prevention and Regulation of Dark Patterns, 2023" on 30th November, 2023 for prevention and regulation of dark patterns listing 13 specified dark patterns.

To safeguard consumers from unfair trade practices in e-commerce, the Department of Consumer Affairs has also notified the Consumer Protection (E-commerce) Rules, 2020 under the provisions of the Consumer Protection Act, 2019. These rules inter-alia outline the responsibilities of e-commerce entities and specify the liabilities of marketplace and inventory e-commerce entities, including provisions for customer grievance redressal.

(c) & (d): There is need to safeguard protection of personal data on e-Commerce sites and social Media Platforms including other types of data fiduciaries. Towards this cause, the Digital Personal Data Protection Act (DPDP Act 2023) has been enacted on 11th August 2023. This Act provides for the processing of digital personal data in a manner that recognizes both the rights of the individuals to protect their personal data and for the data fiduciaries the need to process such personal data for lawful purposes.

The Act also puts the obligation on Data Fiduciary to protect personal data in its possession or under its control by taking reasonable security safeguards to prevent personal data breach. Further, in case of any such breach, the data fiduciary has to intimate the Data Protection Board and the concerned data principal. Also, if the Board determines on conclusion of an inquiry that any breach by such data fiduciary is significant as per the provisions of the Act, Board may, after giving the Data fiduciary an opportunity to be heard, impose a monetary penalty.
