Universa: International Journal of Research
THEPUBLISHGATE JOURNAL SERIES

REVIEW ARTICLE

CLICK TO AGREE? HOW CONSUMER LAW BATTLES HIDDEN CONTRACTS IN THE DIGITAL AGE

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Abstract
In this paper I have attempted to explore the rising issue of concealed digital contracts and the meaning of user approval in this age of Click to Agree. With the advent of the popularity of standard-form online contracts there is a wide use of standard-form online agreements like clickwrap and browsewrap and the study examines whether this type of contract is a matter of free informed consent or a misuse of user behavior and interface design. The proposed study is quantitative and cross-sectional survey-based and intended to ensure that the internet users of different demographics are circulated to determine the extent to which they are aware of, practice, and perceive the terms and conditions of digital environments. The results indicate that there is a vast percentage of people who accept terms online without reading them and in most cases, find some curb stones or bindings later. Rather surprisingly, even with knowledge of manipulative design patterns, users will agree to things because of habit or need. The comparative legal analysis of differences in the regulatory approaches in European Union, the United States and emerging economies is also provided in the paper. The author of the research concludes that digital contracting is based on pseudo-consent and it does not comply with the basic principles of fairness and transparency. It demands a wholesome change in the consumer protection law, a better design of user interfaces, and people education. Applying an analytical approach to legal, behavioural economics and empirical field, the research injects into the current debate around digital rights and online consent validity.

Keywords
Click to agree, Clickwrap, Browsewrab, Quantitative, European Union, United States.

Citation: Munisa Raimova & Sarvarjon Obidov. Click to Agree? How Consumer Law Battles Hidden Contracts in the Digital Age. *Universa: International Journal of Research*. 2025;1

Submitted 6 April 2025
Revised 13 April 2025
Accepted 4 May 2025
Published 2 July 2025

INTRODUCTION

Today, the era of the digital revolution, each click is important, especially the popular one of the I Agree button, hidden at the bottom of thick terms and conditions on websites, applications, and online stores. These apparently innocent affirmations have become the statutory pillar of online business, forming legal obligations between service providers and users with little to no knowledge of the user later. The term, Click to Agree, best describes the evolution of the law of contract in the internet age, and highlights one of the key legal and moral issues of the digital era is the user making informed consent

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by agreeing to the terms seldom or never reads, and which are often embedded in legalese? The current paper discusses the relationships between consumer protection legislation and the emerging practice of so-called hidden contracts in the digital sphere and addresses the question of whether such contracts are lawful and how the various legal systems correlate with this development of digital contracts as they emerge.

E-commerce and digital services have been growing exponentially and there are now more than 5 billion internet users globally and global e-commerce sales are expected to reach more than 6.5 trillion by 2025 (Statista, 2024). In this environment, online business cannot operate without digital contracts. However, as opposed to a conventional face-to-face agreement, these have been thought to be created routinely by one action alone, a click, and without any negotiation or meaningful choice. It leads to very important questions of consumer free will, informed choice, and hierarchal relationships between big tech companies and end-users. The concept of consent in digital contracts has turned into fiction where users have to accept a pre-drafted agreement in order to obtain vital services thus making them into a form of contract alliance (contracts of adhesion).

The heart of the matter is a burgeoning e-consent seen in the form of clickwraps, browsewraps, and shrinkwraps, which tend to avoid conventional legal reviews. Clickwrap agreements have mostly been found to be enforceable provided they are clearly displayed to the user especially when they are required to explicitly mark on accepting it by clicking on I agree. By contrast, the more legally problematic browsewrap agreements bind the user merely by virtue of merely using a site and do not involve any explicit representation of assent. As an illustration, courts in the U.S., have questioned these agreements on ground relating to lack of reasonable notice to the users (Specht v. Netscape, 2002). Even the clickwrap contracts have not been spared the criticism though, due to the sheer complexity and length of the terms (which, at thousands of words, are not even possible for the average user to read) they can also be rendered both practically unreadable and legally incomprehensible (Bakos, 2009).

The motivation of this research consists in the necessity to clarify how consumer law could adequately react to the spread of invisible digital contracts. More than defining the commercial relationships, these agreements influence matters of privacy of data, liability, arbitration, and consumer rights. The legal tools used to guard users seem minimal or out-of-date as consumer remedies, arbitration, and collection of excessive information start to pop up within digital contracts. Evidence of this increasing regulatory attention is shown by the European Union in its General Data Protection Regulation (GDPR) or the U.S Federal Trade Commission through enforcement activities but it underlines the lack of coordination in responses (Kamarinou, Millard & Singh, 2016). The question asked in this regard is that are the existing laws and legal framework good enough to safeguard the digital consumer, or do they need to be transformed radically?

My individual interest in carrying out this study is that I have noticed that many people, including the ones that I personally know, engage in using digital services and fail to familiarize themselves with the rules of the game or even negotiate them. The tolerance of complicated, non-negotiable conditions is emblematic of another system issue: where convenience drowns out legal understanding. Such an established behavioral pattern has already been normalised, but its consequences are far-reaching, they are about losing non-obvious legal rights, agreeing to such a high level of intrusion of their data, or undertaking to resolve a dispute in a far-flung jurisdiction. Being a person who is invested in studying the boundary between law, technology and consumer rights significantly, I

think it is really important to consider the question whether such legal framework benefits the common good or only helps to strengthen the position of companies.

The theoretical background of the proposed study is linked to the contract law, behavioral economics, and theory of digital rights. The unprejudiced view of the contract assumes the use of smart participants who recognize the conditions of an arrangement and agree to the conditions with a free will. However, behavioral economics, as developed by such researchers as Kahneman (2011) indicates that users tend to act out of their cognitive biases, short cuts, and bounded rationality. This implies that digital customers will tend to undergo the practice of accepting terms without reviewing because of the information overload, habit, or the act of believing everybody does it. In addition, the digital contracts transparency is consistent with the theoretical variations developed by Zuboff (2019), who postulates the principle of "surveillance capitalism," according to which consent is considered to serve the needs of data mining, instead of defending human rights.

Some of the questions that this research might answer are as follows: How is the digital contract being interpreted by the courts and their decision concerning its enforceability? To what legal instruments can the need to defend the consumer against an abusive or misleading clause be reduced? What are the differences between jurisdictions in handling digital consent, and which best practices are there? Or will consumer education or technological approaches (a simplification of terms, or the use of legal tech) give people the ability to knowingly choose how they want to be treated? Lastly, which reforms can be done to ensure fairness and transparency of digital contracting?

In order to respond to these questions, this paper will follow a comparative legal analysis with the consideration of the major jurisdictions like United States, the European Union and the upcoming digital economies. It looks at landmark cases (e.g., Nguyen v. The current events with Barnes and Noble (2014) and the consent decree that Facebook had with FTC (2014), the legislative activity such as EU Digital Services Act and the influence of consumer advocacy organizations on policy formation. It also tests experimental studies on user behavior and consent trends in digital space to give a data driven view on consumer behaviors in online platforms with respect to the attraction of online contracts.

Notably, the implications of digital contract enforcement on the greater society are also brought out in this research. By enforcing contracts which the users themselves do not comprehend, or, rather, that they never entered into in good faith at all, legal systems will undermine the trust in digital platforms and vitiate the prophylactic effect of the law. Furthermore, standardized terms in online contracts tend to represent the prevailing interest of the big companies, and this aspect further contributes to unequal economic scenarios and the failure of one of the most fundamental principles of contract the concept of fairness. Due to the current state of the digital contract regime, in which legal scholar Nancy Kim (2013) finds a new form of pseudo-consent that conceals coercion as a choice, the digital contract regime has become a form of pseudo-consent.

Nevertheless, these obstacles appear to be offset by some form of legal innovation and reform. As an illustration, the European Union has imposed the requirements of platforms to maintain short concise and understandable terms and to secure the Legitimate Consent according to GDPR (Regulation EU 2016/679) under the term of freely given, specific, informed and unambiguous. On the same note, mandatory arbitration and fine-print waivers in digital contracts have also faced increased scrutiny in

the U.S. in the Consumer Financial Protection Bureau and legislatures at the state level. The walls are closing in on tech companies as well, who are being pressured to restructure the consent interfaces in a manner that allows users the freedom of choice, a practice commonly referred to as privacy by design or legal UX.

LITERATURE REVIEW

The spread of digital agreements, sometimes yoked together, in the popular imagination with the phrase click to agree, has been accompanied by a proliferation of scholarship in many domains, including contract law, consumer protection, behavioural economics, and digital ethics. The focal point of this debate is whether users voluntarily agree (in context of meaning) to standard form contracts (SFCs) on the web. Such contracts come in the form of guises known as clickwrap, browsewrap, or scrollwrap, and they are read and comprehended in most cases by the user, but binding in most cases (Bakos et al., 2009; Ayres & Schwartz, 2014). The following literature review critically analyses the legal, empirical and normative input into this subject matter by means of the historical development of thought on digital consent, legal enforceability, the design and the interface and the boundaries of the existing form of consumer law.

The viability of boilerplate requirements in adhesion contracts is one of the most established principles in contract law, and digital contracts incorporate it. Rakoff (1983) coined the term contracts of adhesion under which conditions one party and usually corporate party dictates terms on another with very minimal chances of negotiation. Such concepts existed before the digital era, but the online environment created a bigger issue since the user involvement in the contractual contents is close to nil.

Early case law on digital contracts had mostly validated the legal validity of electronic contracts. ProCD v. The U.S. Court of Appeals supported shrinkwrap licenses on grounds of Zeidenberg case of 1996 which constituted a platform of digital contract validity (Zeidenberg 1996). This legal difference between clickwrap and browsewrap (that a user has to click a button to signify agreement) and browsewrap (that the user has the use of a web site bound the user) was later explained in Specht v. Netscape Communications Corp. 2002. In an important case in the jurisprudence of digital consent, the court invalidated browsewrap terms due to the absence of an appropriate warning to the user of the internet.

Subsequent cases including Nguyen v. The significance of conspicuous notice and plain consent was repeated in Barnes & Noble (2014). These decisions put courts in a position whereby they are more prone to clickwrap than browsewrap contract, the importance of user interaction with regard to the validity of the consent (Hillman & Rachlinski, 2002). But even clickwrap has been criticised where terms are long, complicated, or even presented in a coercive manner.

There are a number of types of online agreement distinguished in literature: clickwrap, browsewrap, scrollwrap and sign-in-wrap. Unlike in the situation where terms are concealed or are obscured, however, according to Becher & Benoliel (2019), these interfaces can vary widely in their legal enforceability. Empirical research was conducted on 500 popular websites, according to which less than 1% of users visited the provisions of the terms of service before accepting them, although the inability to read them legally could cost (Benoliel & Becher, 2019).

This is because the manner in which the terms of a contract are presented affect how the user perceive it as well as how they react to it. Gray et al. (2021) reviewed the potential of dark patterns, or unscrupulous design strategies, to force users to engage in

clicking agree without a trustworthy association. These are default settings, hide and seek options and deceptive labelling. These findings highlight the performative aspect of consent on the internet which pose an ethical and legal concern regarding user-autonomy.

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Behavioral Economics and The Illusion of Consent

The traditional theory of contracts is based on the assumption of rational actors, informed by the understanding and agreement. But this is an assumption that is contested by behavioral economics. Kahneman (2011) and Sunstein (2013) state that users tend to be affected by cognitive shortcuts, habit, or inertia. This means that making agreements digitally with the button label, such that the user clicks on I Agree usually amounts to behavioral compliance other than serious thinking that underpins the formal agreement. This is known in literature as the no-reading problem (Ayres & Schwartz, 2014), which showed that notwithstanding the availability of contracts, the majority of their users read nothing and do not understand the content of their contracts. The mandatory summary disclosure and form of pay or play in which consumers have option to pay to not enter into problematic terms is suggested by the authors but is also a theoretical proposal. Radin (2014) goes further to claim that boilerplate digital contracts that are on the rise deny individuals of their autonomy and support the invalidity of consent. She terms this submissive practice as pseudo-contracting, when an illusion of choice conceals a lack of a negotiation or knowledge.

Data Privacy and Monitoring Capitalism

Many digital agreements also incorporate agreements about data harvesting, algorithmic profiling, and third-party sharing. This regime is viewed as a surreal experience in which consent is used as a means of economizing personal information by Zuboff (2019). The GDPR has tried to address this by the principle of “consent freely given, specific, informed and unambiguous” (Regulation (EU) 2016/679, Article 4). Nevertheless, research indicates that even GDPR notices are hardly read and

comprehended (Degeling, 2018). As Kamarinou, Millard & Singh (2016) claim, GDPR privileging of consent is not valid as the actual control over the personal data can be achieved only when there are structural restrictions over the practices data-handling corporations follow. In another study, also Hoofnagle (2019) revealed that, just like in the case with notice-and-consent, users are quite naive of what rights they give out when they agreed to them, in many situations.

Restrictive terms, Arbitration Clauses

The first area of issue in online contracting is the presence of forced arbitration, class action waiver and limits on jurisdiction. The users then lose any legal action against such terms. AT& T Mobility LLC v. According to Concepcion (2011), the U.S. Supreme Court enforced arbitration provisions, even the ones that describe serious implicating power discrepancies. According to the studies by Horton (2017) and Kim (2013), consumers hardly recognize the existence and meaning of these clauses and how it affects their legal responsibility. Such terms tend to be buried in complicated documents, written in small font and often force the user to forego rights that they would otherwise have under the consumer law.

Comparative Legal Studies

In different jurisdictions, different positions apply in relation to hidden digital contracts. The modern EU is more consumer-centrist, with this idea being implemented in the Unfair Terms in Consumer Contracts Directive (93/13/EEC) and the Digital Services Act (2022). The aim of these instruments is to create transparency, simplify words, and guard users against abusive words.

Conversely, the U.S law states freedom of contract exclusively where the courts often enforce provisions of standard form contracts despite lack of their being read (Hillman, 2012). The Federal Trade Commission (FTC) has stepped in in some of the worst instances of fraudulent marketing yet change has only been systemic at a rate that is limited.

Latin America and Asia are emerging economies that are starting to deal with these problems. As an example, the General Data Protection Law (LGPD) in Brazil is quite similar to the GDPR and it focuses on transparency in terms of user agreements (Doneda & Almeida, 2016). Nonetheless, there is poor enforcement.

Law reformation and design innovations

There are many reforms proposed by scholars and policy advocates. According to Kim (2019), there should be a shift towards meaningful consent that demands action on the part of the user but his understanding. Boritz & Han (2021) promote plain-language legislation and visual consent system designed by stretch of law, use of icons, summaries, and color codes as elements of increasing transparency. Artificial intelligence and machine learning are also discussed as the aspect of contractual justice evaluation by legal scholars. Such tools, which indicate potentially troublesome clauses to users in real-time, algorithmic contracts review happens to be one of the issues addressed by Sela (2020). Nevertheless, those tools will create other issues of bias, access, and digital literacy.

Gaps in the literature

In spite of great efforts in this area, there is still a number of gaps. First, no longitudinal studies that show the practical implication of digital contract terms within a framework have been carried out. Second, the majority of studies focus on North America

and Europe, and not little is known about the way digital agreements operate, when dealing with low-literacy or non-Western societies.

Third, little research is able to meaningfully touch on the nexus between user experience (UX) design and contract law, even though there is accumulating data that interface design has a significant effect on how people behave. And lastly, technological currents like smart contracts, dynamic terms, voice activated contracts are unexplored but are bound to carve another transformation in the environment of contracting again.

METHODOLOGY

The research used quantitative research design which was based on descriptive and exploratory approach. The aim of the research was to see the relationship between consumers and online contracts or on-line contracts, especially the hidden terms in the online contracts known in the digital area of consumer procurement terms as a click type of contract, and consumers with regard to legal issues of contract law.

The data was collected using a cross-sectional survey pattern that has a single time sampling of the different online users that form a heterogeneous group. This is the technique that enables to gather standardized data about a comparatively vast sample and that makes it easy to trace the trends, keep the numbers of how frequently it occurs and discover how it is interconnected. The exploratory part of the study was to find out the patterns of behavior of people and consumer awareness towards online contracts whereas the descriptive segment was to measure the awareness and experience levels amongst various user groups.

The mixed-method design was reported to be taken into account during the planning, however, due to the size of the study and the necessity to provide a result that can be measured and analyzed, a purely quantitative approach was decided to be taken in terms of the structured questionnaire. The survey was aimed to respond the principal research questions:

How aware of online terms and conditions are consumers on signing up to them?

To what extent are the encrypted obligations common to typical online platforms?

How well informed are consumers in terms of their digital rights?

How can design (dark patterns or manipulation of the UI) contribute to confusion of contract terms?

Data collection procedures

Data were collected with the help of an online questionnaire located on Google Forms and shared via multiple digital platforms (social media, such as Instagram, Telegram, WhatsApp, LinkedIn, university mailing lists, and open forums). The questionnaire took two weeks and this was necessary to give the readers sufficient time to respond to the form.

Anonymous as well as voluntary participation of participants was invited. The questionnaire was made in such a way that it should take about 5-7 min to fill. It also contained both closed-ended and multiple choice questions in order to make the data easy to quantify. The target population was people aged 16 or more; there were no limits as to nationality, sex, or occupation because the problem of undisclosed digital contracts is international. Nevertheless, a particular emphasis was put on the university students and working professionals who are the groups of people using digital platforms actively.

The sampling approach was a non-probability sampling i.e. convenience sampling. This restricts generalization, but of course, it was fit to an exploratory research, the goal of which was to detect some tendencies and create awareness. The questionnaire sheet

had a brief description of the purpose of the research, confirmation of the research confidentiality and consent to participate in the research.

Tools or Instruments used

Again, structured questionnaire, built with the help of Google Forms, played the main role as the instrument of collection of data. The questionnaire was based on 10 basic questions, which were based on found research about digital contracts, consumer rights and interface design patterns (dark patterns). The questions were as simple and direct in as much as they were non biased to avoid biasness and to enhance the call to respond accordingly.

Three thematic parts were used in the questionnaire:

Section A: Demographics - age, gender, occupation, and the way of using an internet device.

Section B: User Behavior & Awareness: questions regarding actually reading terms, being aware of deceptive clauses, or feeling tricked.

Section C: Legal Knowledge & Perception - addressed the knowledge of the participants in the digital consumer protection laws and whether they think the existing laws are enough.

Google form had a timestamp and a simple organization of the responses hence easier to export the data into Excel and other statistical analysis tools.

To be reliable and valid, the questionnaire was pilot-tested on 10 people who belonged to the target population. They also obtained feedback on the clarity of the questions, their length, and on technical aspects. The changes were minor and depend on the feedback of the pilots, including rewording vague wording and reducing long items.

The questionnaire was not leading and it was significantly balanced. An aspect that was used as an example was that rather than include such a question as, do you feel cheated by online contracts, there was a more objective way of asking the question that is, have you ever noticed unforeseen conditions after you signed online terms.

Data Analysis techniques

The data obtained via Google forms were exported and entered into Microsoft excel and SPSS (Statistical Package for the Social Sciences). Analysis was of a descriptive and inferential nature.

Descriptive Analysis:

The demographic characteristics of respondents and overall trends in user behavior were presented with the help of descriptive statistics. These included:

Frequencies and percentages in order to determine the number of people who read or skip on terms and conditions.

Cross-tabulation of demographical variables (e.g. age-contract awareness).

Pie charts and bar charts to demonstrate important inferences in clear and comprehensible way.

Inferential Analysis:

In order to provide the analysis further, the following methods were applied:

Chi-square tests are used to determine the relationship between variables (e.g. age and the possibility to read terms).

Correlation analysis on determining associations of understanding consumer rights and the frequency of digital use.

To compare mean differences between the groups under age or user types T-tests or ANOVA in case of appropriate.

In cases where there were open responses (such as in the case of having options like Other), qualitative coding were used so as to have meaningful themes of the responses to give additional knowledge.

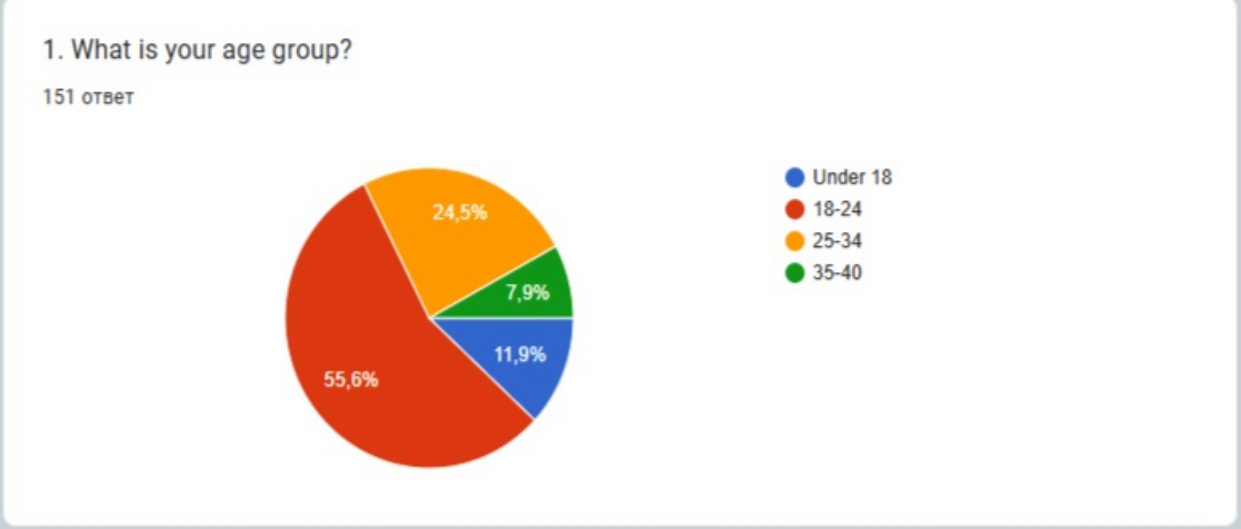
The data analysis was aimed at not only description of the current behavior, but also acknowledgment of tremendous gaps in awareness and potential spots of legal vulnerability, which would be consumed into the policy recommendations later in the article.

No compromises were made with regards to ethics. There is no personal identifying information that was captured. The survey was voluntary and the data was also stored. The survey was voluntary and the respondents were entitled to enter the survey whenever they desired. These precautions made the research comply with a few core ethical principles of anonymity, transparency, and informed consent.

RESULTS

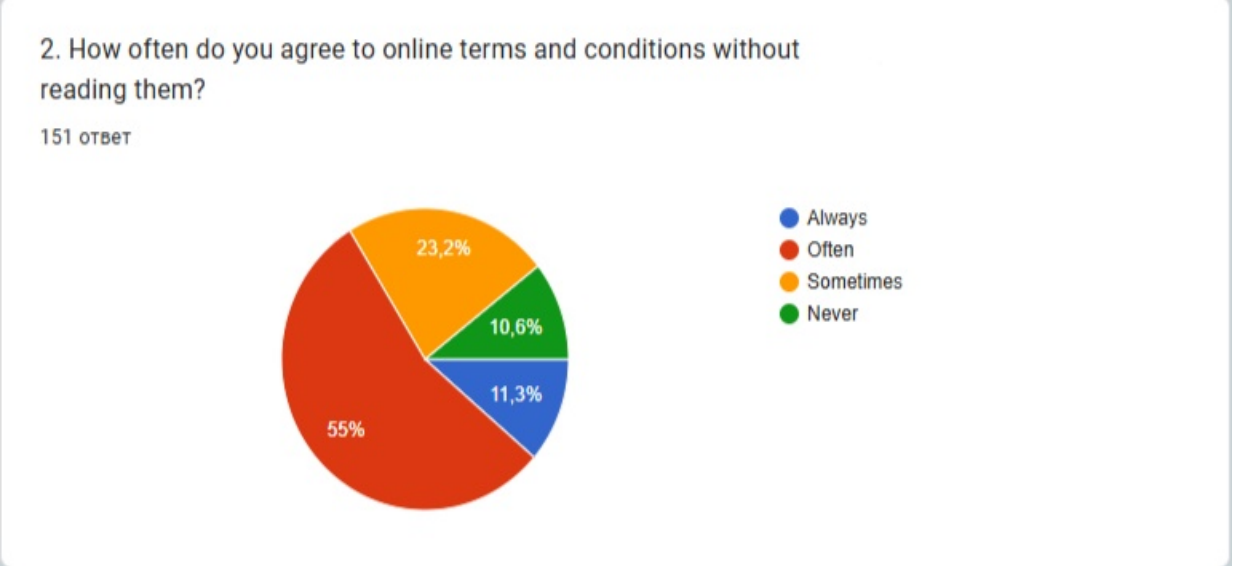
GRAPH 1

1.What is your age group?	**%**	**151**
Under 18	11.9%	18
18-24	55.6%	84
25-34	24.5%	37
34-40	7.9%	12



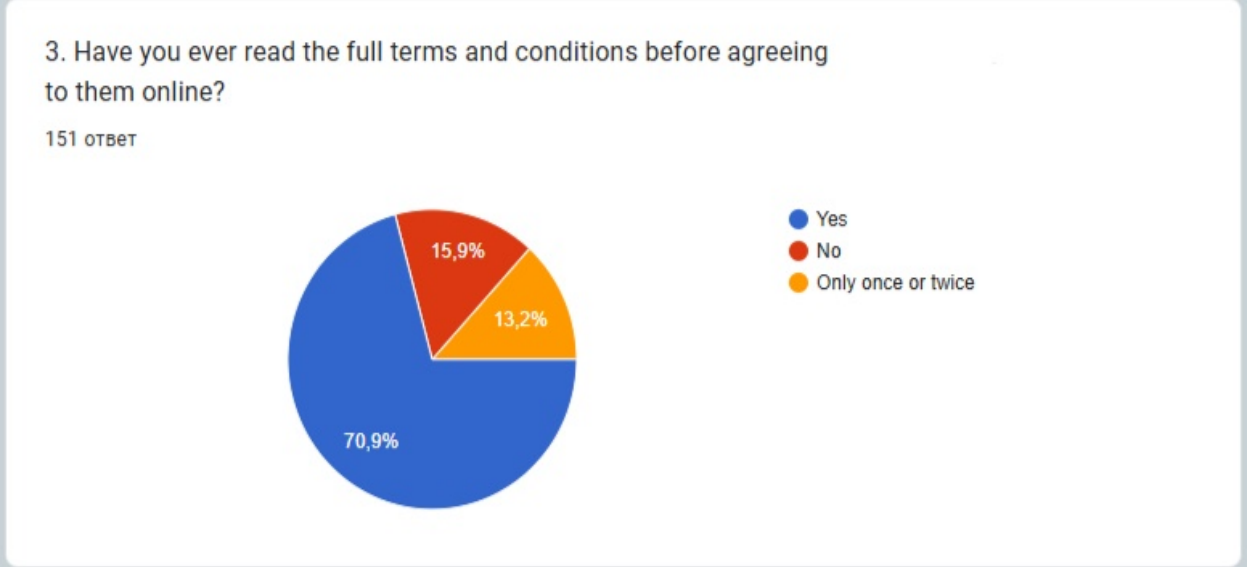
GRAPH 2

2. How often do you agree to online terms and conditions without reading them?	**%**	**151**
Always	11.3%	17
Often	55%	83
Sometimes	23.2%	35
Never	10.6%	16



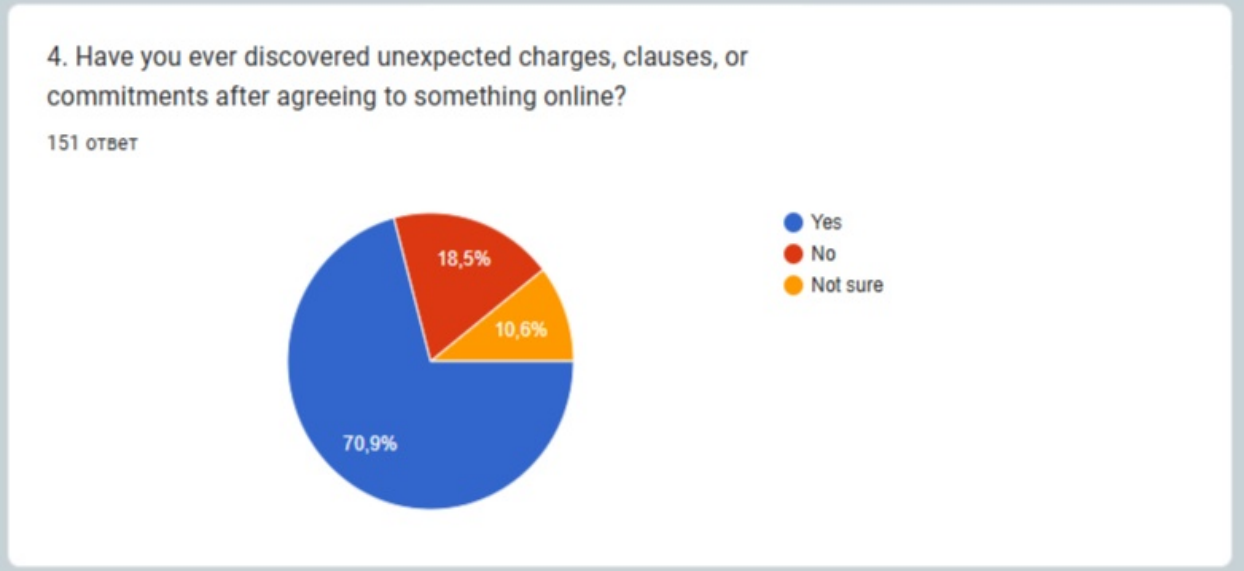
GRAPH 3

3. Have you ever read the full terms and conditions before agreeing to them online?	%	151
Yes	70.9%	107
No	15.9%	24
Only once or twice	13.2%	20



GRAPH 4

4. Have you ever discovered unexpected charges, clauses, or commitments after agreeing to something online?	%	151
Yes	70.9%	107
No	18.5%	28
Not sure	10.6%	16

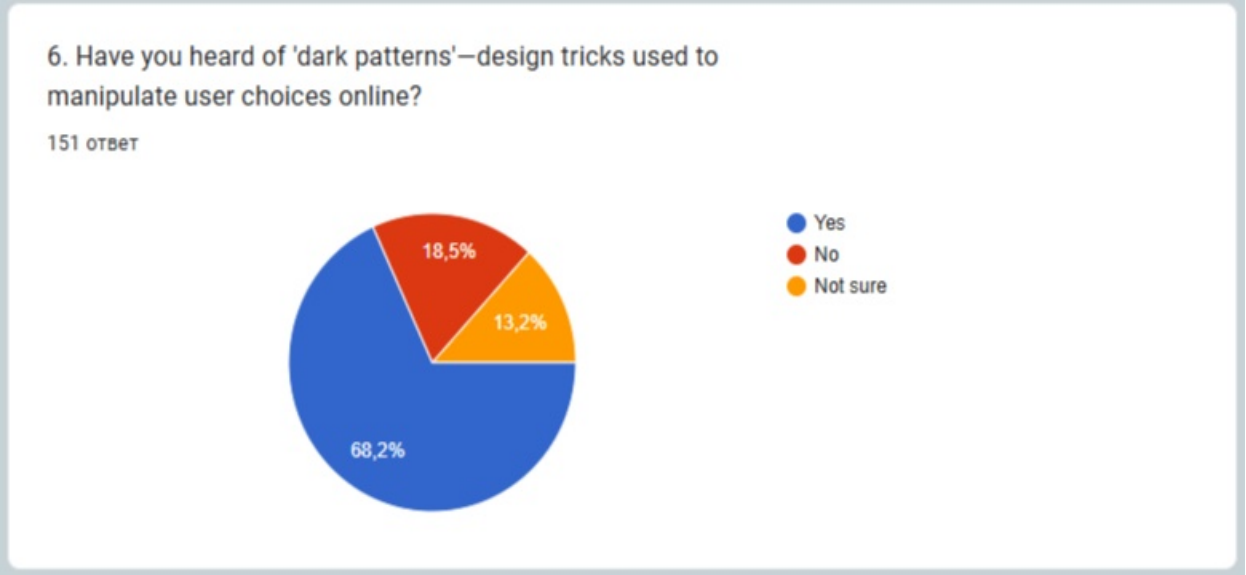


GRAPH 5

For what extent do you feel which CSR initiatives contributing for general achievement of the organization?	%	151
Very confident	15.9%	24
Somewhat confident	58.9%	89
Not confident	12.6 %	19
Not sure	12.6%	19

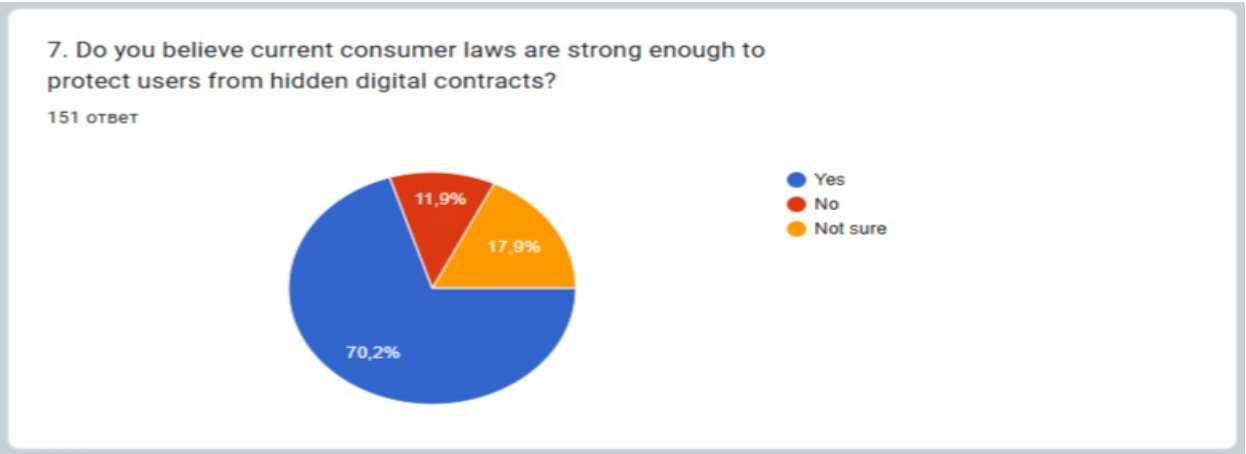
GRAPH 6

6. Have you heard of 'dark patterns'—design tricks used to manipulate user choices online?	%	151
Yes	68.2%	103
No	18.5%	28
Not sure	13.2%	20



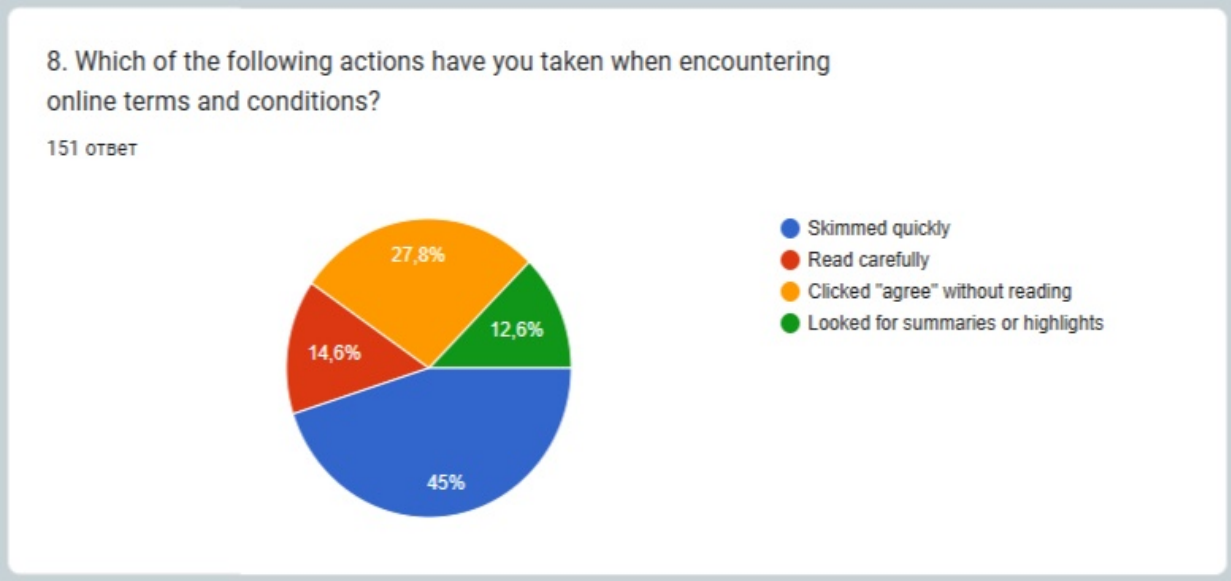
GRAPH 7

7. Do you believe current consumer laws are strong enough to protect users from hidden digital contracts?	%	151
Yes	70.2%	106
No	11.9%	18
Not sure	17.9%	27



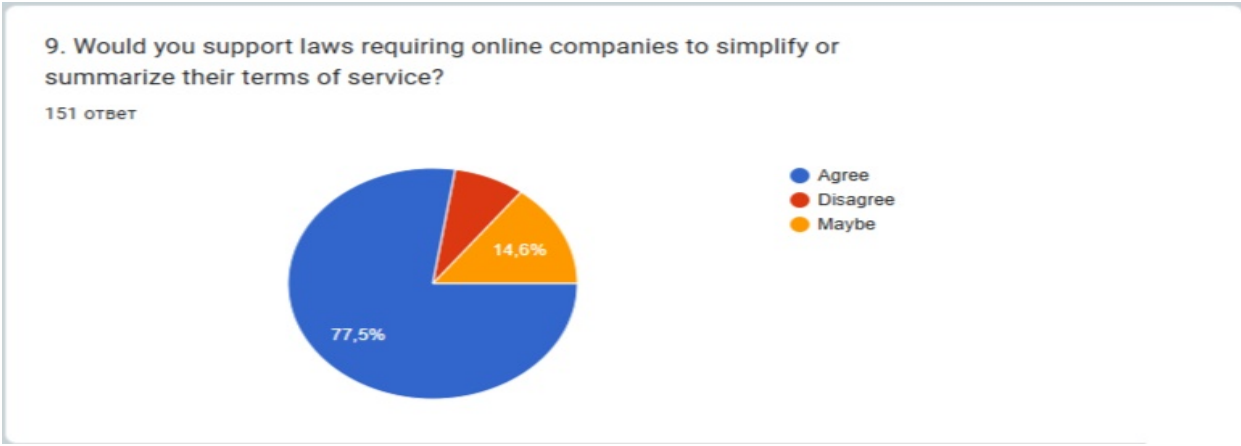
GRAPH 8

8. Which of the following actions have you taken when encountering online terms and conditions?	%	151
Skimmed quickly	45%	68
Read carefully	14.6%	22
Clicked “agree” without reading	27.8%	42
Looked for summaries or highlights	12.6 %	19



GRAPH 9

9. Would you support laws requiring online companies to simplify or summarize their terms of service?	%	174
Agree	77.5%	117
Disagree	7.9%	12
Maybe	14.6 %	22



DISCUSSION

The results of this paper provide significant empirical evidence on the interaction between users with the digital contracts, particularly the awareness, the behavioral patterns of the users, and the legal protection perceptions. These conclusions are reflected and complement a wide range of scholarly works in the field of contract law, behavioral economics, digital ethics, and user experience (UX) design. To analyze the findings in the light of the previous literature is necessary to interpret what they portend in the cases of consumer autonomy, legal adequacy, and contract policing in the digital era.

The strongest and nearest revelation that came out of the findings is the sheer inclination of the users to accept online terms and conditions without glancing at them. Based on the data, 66.3 of users confirmed that either they never read terms of agreements on using the Internet, or they do it occasionally, and the number of those who read contracts through completely are just a tiny fraction. These results correspond to the long-established no-reading issue in online contracting, published in landmark literature by Bakos (2014), and showing that the majority of users do not meaningfully read a contract online but instead act on huge volume, intricacy, or legalese that render a contract inaccessible.

This is a behavior that can be well analyzed by observing the theoretical aspect of behavioral economics. Kahneman (2011) and Sunstein (2013) and other authors prove that using heuristics, some shortcuts in decision-making, online users are inclined to use these cues to make decisions. The action of pressing the button and accepting the agreement by clicking on I Agree turns into habitual behavior rather than the admitted practice. The results of the study support this idea since it turns out that not the careful thought of the user, but convenience, obviously with the help of perceived norms and the interface will become the main guide to user behavior. The same can be felt in the critique of standard-form contracts (Ayres and Schwartz, 2014) that is made based on the idea that the design and the presentation of a contract matter more than the content present therein in the regulation of the behavior of the users.

The most serious finding of the results is that this percentage is 70.9% of respondents found unforeseen charges or clauses after accepting terms. This is an effect of informational asymmetry of power that is typical of the phenomenon Radin (2014) labels as pseudo-contracting, when legal relations are established passively as opposed to the agreement between parties. The results of such situations compromise the original law of contracts such that contracts are said to be the product of meeting of the minds. Rather, electronic contracts have become devices in which companies dictate the terms of use that users do not comprehend and do not actually accept.

Such a fact throws credible doubts over the validity and justice of digital contracts. The legitimacy of clickwrap, browsewrap and scrollwrap agreements has been debated by law scholars and Courts. The case that played with the distinction, first explored in Specht v. In Netscape (2002) and subsequently in Nguyen v. Barnes & Noble (2014), rests on the factors of term visibility and user assent clearity. These cases match the survey results because they show that the majority of users feel that they are neither open nor have agency. Respondents answered that they were reading terms carefully in only 14.6% of the answers, as the majority had to confess that they were skimming MTERS or completely not reading at all. This supports the findings of an empirical study carried

out by Becher and Benoliel (2019) that online contract reading among less than 1 percent of users occurs even in the case of accessible formats.

More in-depth consideration will show that the situation cannot be reduced to inattentiveness, but rather the characteristics of the design. 68.2 percent of participants reported being aware of such phenomena as these dark patterns: manipulative interface elements that help a platform provider nudge a user to do something that is beneficial to the latter.

However, even after this realization, the users continued to click on the agree button either as a habit or as a necessity. This implies that knowledge is not enough to modify behavior, especially in instances when the design interface makes a choice not to see. The critical concept described by Gray et al. (2021) argues that the UX design frequently preys on the user psychological weaknesses and turns the interaction between them into a forced piece of performative consent. The outcomes of this paper will confirm the presumption that this exploitation persists despite the increasing levels of user awareness, which is a testament to the fact that there is a fundamental issue with digital contract architecture.

The other important observation is that 70.2 percent of the sample do not believe that the existing consumer laws are adequate to safeguard users against the danger of sleeping digital contracts. This perception agrees with critiquing lines in the current literature (i.e., Kamarinou, Millard, and Singh, 2016), which argue that regulatory solutions (like the General Data Protection Regulation (in short, GDPR)) to handle the issue of substantive fairness in digital contracting are inadequate. Most users, however, unaware of their rights and consequences of their consent, lack the awareness that the GDPR requires the consent to be given freely, specifically, informed, and unambiguously (Degeling et al., 2018).

The results of the survey are one more basis of this discrepancy between legal theory and user experience. It is easy to find that even in the cases where a policy or regulation is meant to safeguard a user, its benefits are limits by issues related to design, literacy, and enforcement. Users still feel disempowered and uninformed, which implies that the emphasis of the law on consent formalities might not be effective, unless it is enforced in a manner that leads to the actual comprehension. In line with the reasoning developed by Hoofnagle et al. (2019), consent cannot be meaningful, in fact, it can be categorized as meaningless or meaningless, in the contexts where the user does not have either the tools, time, or, in other words, sufficient cognitive resources to assess the more complex contractual terms.

The desire by users to have reform is well expressed in their reply to the question on simplified contracts where 77.5 percent of the users favour having laws that will ensure companies offer clearer pictures or descriptions of terms. Such a need corresponds to proposals of reform in academic and policy circles. An example is given by Boritz and Han (2021), who support the use of visual consent systems with icons, summaries and color-coded visual characteristics as means to increase clarity. These aids do not only minimize cognitive loads, but also activate true understanding. The fact that the people strongly support the innovations, which the survey has revealed, means that there is a desperate need to ensure lawmakers and tech companies start prioritizing the aspects of legal design and user-centered governance.

Demographically, the survey collected a majority number of respondents between the age of 1834 and this represents the highest number of digital users around the world.

Although this group knows technology, their level of legal literacy remains low and they are vulnerable to hidden terms. This brings out the fact that the problem is common across all ages and levels of experience. It also implies that old stereotypes about the fact that digital natives are more knowledgeable or aware cannot be confirmed based on behavior. Digital literacy should undergo a shift towards encompassing the technical familiarity and familiarity with legal prescriptions and a critical mindset.

The consequences of this discovery are longer-term. To begin with, they cast doubt on the validity of most digital contracts that are anchored in unread or not understandable terms. Courts, regulators and policymakers need to re-examine the rules of enforceability in digital space. Second, the findings offer a basis to review the concept of the role of consent in the digital economy. Instead of viewing consent as a checkmarks exercise, law should consider using alternatives whereby a default rule serves as protection, the use of standardized terms or opt in procedures where other provisions are sensitive.

However, this is not an absolute study. The most obvious one is the fact that it uses the convenience sampling technique therefore making it less generalizable. Though university students and professionals are a great place to start and can provide insights into the behavior of digital natives, they omit important groups of the audience, including older citizens, low-level literacy or rural customers. In the next study, researchers need to pay more attention to more representative sampling to reveal the impact of digital contracts on vulnerable or marginalized groups.

The other weakness is the self-reports of the survey. Social desirability bias leads to (1) over-reporting of awareness of or (2) under-reporting of risky behavior. As an example, the user might say that he or she knows of the dark patterns or legal terms whereas, in reality, this knowledge is shallow. Combining responses from the self-reporting technique with observational data or experimental designs, like eye-tracking, clickstream analysis or A/B testing, may provide more reliable data about how real users operate.

The third limitation is quantitative orientation of the study. Although the structured survey was efficient in terms of general tendencies, it was not deep enough to provide the answers to the question of the reasons why the users behave in the way they do. The analysis could have further benefited with qualitative interviews or focus groups to provide the subjective experiences, frustrations and misconceptions that users experience when dealing with digital contracts. Research can be improved by including qualitative material in research that can enable a deeper view of the reasons behind user motivation and resistance.

In future, few areas of research are identified. The first one is the interplay between smart contracts and consumer protection. Since smart contract agreements based on the blockchain are becoming increasingly widespread, this will raise questions about the provision of consent, its interpretation and execution in automated settings. Complexity and opacity of smart contract might also interfere with the understanding of the user unless regulations regimes evolve in anticipation.

Design law interface is also another field that one may consider. Researchers and programmers need to cooperate and experiment on the impact different interface designs bring about to legal comprehension. These are examining the impact of the font size, layout, color coding and interactive features and their influence on user interpretation. Strict empirical experimentation of design variations would dictate regulatory principles that generalise consent forms among industries.

CONCLUSION

This paper has discussed the largely unappreciated phenomenon of hidden digital contracts in the modern digital economy. With the help of both empirical survey data and theoretical analysis, the study proves the statement that digital users enter legal agreements (or at least sign them) without reading them and being aware of their content most of the time and influenced by interface design techniques and the biases of behavior. The major findings indicate a common trend: the majority of users fail to read the online terms and conditions, never have any idea about the legal consequences of their acceptation and frequently come across hidden terms only after pressing the button labeled as I Accept. Such phenomenon threatens the basic principles of contract law, in particular, informed consent and mutual agreement.

The survey findings also show that 66.3 percent of online users either do not or hardly read online terms and they have noticed unanticipated commitments after consenting to them in 70.9 percent of the cases. These results support the hypothetical issues of the legal theorists and behavioral economists concerning the idea of pseudo-consent, information imbalance, and exploitation of dark patterns. The fact is that users are technologically literate but they are not legally literate which prevents their effective interaction with digital contracts. This situation is additionally enhanced by the interface design of most of the platforms that encourage user compliances instead of allowing informed choice.

The second important contribution of the research is that it dwells on the user experience (UX) aspect of digital contracting. The sheer scale of negligence by the users is not just what is happening, but the systems have become designed to keep them neglective and unthinking. The existence of dark patterns, manipulative defaults, and hidden terms strengthens a coercive culture of contracts that prefers an impression of choice. In spite of weariness of users, raised awareness among the user group, consent remains habitual and necessitated; moreover, more than two-thirds of the participants were aware of the existence of dark patterns. This highlights the ethical and the legal issue of performative as opposed to actual user consent.

Thus, comparatively, the research concludes that although jurisdictions, such as the EU, have rolled out stringent regulation policies, such as the GDPR and Digital Services Act, the problem is poor enforcement and a lack of user understanding. On the contrary, the U.S. still embraces freedom of contract with a tendency to favour the users as cost, and the emerging economies are still working out their strategies. These inequalities also reiterate the importance of standardized, user-friendly changes in the law.

This study makes a contribution to the emerging literature of digital consumer rights that incorporates knowledge of legal theory and behavior, as well as empirical user experience. It helps to fill important gaps in the literature by answering the question of how real users e.g. customers behave, what they know and what they expect of digital contracting structures. Its findings create a need of Multidisciplinary approach to the problem, namely, legal, technological and educational which will make online contracting fair and transparent again. Simplified language, visual consent systems, legal UX design and contract review through machine learning tools are some proposals that are promising and worth development.

Finally, the paper also questions the construct of consent in the era of online communication and demands reconsideration of the way the law refers to and safeguard

it. This study expands the existing limits of traditional contract law and is valuable in the sense that it takes the perspective of the experienced digital consumer and adds insight into the by now important task of making digital life more fair, transparent, and legally sustainable.

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