



Understanding and Addressing the use of Deceptive Design in Nigeria's Digital Lending Ecosystem

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Abstract

This thesis examines the prevalence and implications of deceptive designs within Nigeria's digital lending ecosystem. Digital lending platforms have gained significant popularity in Nigeria, providing access to quick and convenient loans for individuals and small businesses. However, there are concerns regarding deceptive designs that exploit users and lead to financial difficulties. The thesis examines the concept of deceptive design and its various manifestations in five digital lending products. Then, it delves into some of the factors that make individuals susceptible to these designs, thereby establishing the need for understanding their effects on borrowers in Nigeria. Furthermore, the thesis explores the regulatory landscape for digital lending in Nigeria while comparing it to the European Union Consumer Credit Directive. Based on the comparative analysis, the thesis identifies gaps in Nigeria's legal system and proposes recommendations for addressing deceptive designs effectively in Nigeria. This research provides valuable insights into the practices and consequences of deceptive designs in Nigeria's digital lending ecosystem. The thesis believes Nigeria's regulatory framework is sufficient to address the problem but must be more adequately enforced. In addition, the relevant regulators can develop targeted interventions to protect consumers and promote responsible lending practices by understanding the dynamics and becoming more initiative-taking. This thesis contributes to the broader discourse on consumer protection and ethical considerations in digital lending platforms by unveiling the deceptive practice of digital lenders and recommending leveraging existing frameworks to address the challenges consumers face.

Chapter 1: Introduction

1.1. Research topic

The digital lending ecosystem in Nigeria has gained prominence in recent times. The absence of conventional banking rules, instant credit availability without collateral, and the ease of mobile phone access for potential lenders all contribute to increased efficiency in the world of digital lending.¹ This thesis focuses on identifying the prevalent deceptive practices in the digital lending ecosystem in Nigeria, the risks and harms posed by their use, and the role of existing regulations in addressing the problem. "Deceptive design" refers to "tricks used on websites and apps that prompt consumers to do things they did not intend to do, such as sign up for service."² Although it can be difficult to distinguish between genuine customer acquisition efforts and deceptive design in digital products, consumers can be manipulated through outright falsehoods, nudging to take predetermined actions, and other techniques that impact their autonomy and rights to the benefit of the service providers.³

Deceptive digital financial service providers shape consumers' positive perceptions of their products through deceptive designs such as social proofing and misleading information to project a product's or service's benefits and manipulate consumers.⁴ Also, deceptive designs impact consumer privacy, rights, and behavioural autonomy.⁵ This is because, through deceptive product designs, consumers are steered to make decisions, buy products, and provide more information, among other things, which is not intended.⁶

1.2. Background/Problem statement

The Nigerian financial technology ecosystem receives more funding from investors yearly than other African countries.⁷ Digital lending is a subset of the larger financial technology ecosystem, helping to provide the much-needed access to credit that consumers require. However, despite their impact and the importance of the problem they solve, the digital lending

¹ 'Benefits of Using Digital Lending Platform' (*Kms Solutions*, 27 February 2022) <<https://blog.kms-solutions.asia/benefits-digital-lending-platforms>> accessed 10 October 2022

² Harry Brignull, 'Deceptive Design - User Interfaces Crafted to Trick You' (*Deceptive.design*) <<https://www.deceptive.design/>> accessed 11 October 2022

³ Adedolapo Adegroye, Oyindamola Banjoko, and Ridwan Oloyede, 'The Blurry Lines between Deceptive Design and Marketing Strategy in Nigeria's Digital Space' (*Tech Hive Advisory*, 25 March 2022) <<https://techhiveadvisory.org.ng/wp-content/uploads/2022/04/Dark-Pattern-Research-2.pdf>> accessed 28 September 2022

⁴ Victoria Adaramola and others, 'Digital Lending: Inside the Pervasive Practice of LendTechs in Nigeria' (*Tech Hive Advisory*, *Ikigai Innovation Initiative*, and *Regcompass* 2021), 35 <<https://techhiveadvisory.org.ng/wp-content/uploads/2021/11/lendtech.pdf>> accessed 28 September 2022

⁵ Botes Marietsjie, 'Autonomy and the Social Dilemma of Online Manipulative Behaviour' [2022] *AI and Ethics* <<https://doi.org/10.1007/s43681-022-00157-5>> accessed 19 December 2022

⁶ Alexander Rasch, Miriam Thöne and Tobias Wenzel, 'Drip Pricing and Its Regulation: Experimental Evidence' (2020) 176 *Journal of Economic Behavior & Organization* 353 <<https://www.sciencedirect.com/science/article/pii/S0167268120301189>> accessed 27 October 2022.

⁷ Abubakar Idris, 'The Nigerian Fintech Boom, by the Numbers' (*Rest of World*, 23 September 2021) <<https://restofworld.org/2021/five-nigeria-fintech-stats/>> accessed 11 October 2022

ecosystem faces many problems. There is abuse of rights, manipulative, vague and repressive terms of use, and humiliation⁸ which has led to cracks in relationships,⁹ and, in some severe cases, drove desperate consumers to commit suicide.¹⁰ There is also privacy abuse, such as sending unsolicited emails, calls, and messages; and collecting more data from consumers than is required. Also documented are the dangerous permissions on mobile devices that allow apps to access personal information like location data, storage, emails, and access to modify contents, among others.¹¹ In addition, there is the use of ambiguous interest rate computation, which traps consumers in endless debt cycles,¹² poor security architecture on mobile applications and websites,¹³ misrepresentations about the quality of services, and weak regulatory oversight on operations.¹⁴

Easy access and no formal banking requirements make these products appealing to those desperate to meet financial obligations.¹⁵ Because these consumers were customarily excluded from traditional banking due to a lack of collateral or good credit, digital lending platforms became a good option. According to 2021 statistics, 7 out of 10 bank customers could not obtain credit.¹⁶ Thus, the ease of disbursing loans with a few clicks and lax regulation¹⁷ boosted

⁸ Morris Kiruga, 'This Lending App Loves You until You're Late on a Payment. Then the Shaming Begins.' (*Rest of World*, 26 May 2020) <<https://restofworld.org/2020/okash-microlending-public-shaming/>> accessed 12 October 2022.

⁹ Olumuyiwa Olowogboyega, 'In Search of Quick Loans, Nigerians Give up Privacy' (*TechCabalTech Cabal*, 14 October 2019) <<https://techcabal.com/2019/10/14/in-search-of-quick-loans-nigerians-give-up-privacy/>> accessed 12 October 2022.

¹⁰ Tola Owoyele, 'Nairaplus, 9Cash... Quick Loan Apps Driving Nigerians to Suicide' (*Foundation For Investigative Journalism*, 11 December 2021) <<https://fij.ng/article/nairaplus-9cash-quick-loan-apps-driving-nigerians-to-suicide/>> accessed 12 October 2022.

¹¹ Victoria Adaramola and others, 'Digital Lending: Inside the Pervasive Practice of LendTechs in Nigeria' (Tech Hive Advisory, Ikigai Innovation Initiative, and Regcompass 2021), 26 <<https://techhiveadvisory.org.ng/wp-content/uploads/2021/11/lendtech.pdf>> accessed 28 September 2022
Dangerous permission is a type of restricted permission on mobile applications that gives an app additional access to restricted data. For example, permission to access camera, location data, and storage files, among others. 'Permissions on Android' (*Android Developers* 2023) <https://developer.android.com/guide/topics/permissions/overview#dangerous_permissions> accessed 10 April 2023.

¹² Amos Abba 'How Fintech Loan Sharks in Nigeria Cyberbully, Trap Customer in Debt | the ICIR' (*The ICIR*, 27 October 2021) <<https://www.icirnigeria.org/how-fintech-loan-sharks-in-nigeria-cyberbully-trap-customers-in-debt/>> accessed 12 October 2022.

¹³ Adaramola and others (n 4) 32.

¹⁴ *ibid* 14.

¹⁵ Babajide Komolafe, 'Competition by Banks, Fintechs Drive Consumer Loans up 43% to N1.8trn' (*Vanguard News*, 20 December 2021) <<https://www.vanguardngr.com/2021/12/competition-by-banks-fintechs-drive-consumer-loans-up-43-to-n1-8trn/>> accessed 27 October 2022.

¹⁶ Endurance Okafor, 'Seven in 10 Bank Customers Lack Access to Credit. Can Fintech Save the Day?' (*Businessday NG* 27 April 2021) <<https://businessday.ng/financial-inclusion/article/seven-in-10-bank-customers-lack-access-to-credit-can-fintech-save-the-day/>> accessed 19 December 2022.

¹⁷ Daniel Adeyemi, 'Unchecked Ambition, Lax Regulations: The Genesis of Predatory Digital Lenders in Nigeria' (*TechCabal* 11 January 2022) <<https://techcabal.com/2022/01/11/predatory-digital-lenders-in-nigeria/>> accessed 19 December 2022.

digital lending services in the country.¹⁸ The use of deceptive design in digital lending products' interfaces, such as the inability to delete accounts, hiding information, false choices, pre-selected options, false testimonials for social proofing, and the lack of cookie consent notices on the websites, manipulates consumers into using these products based on social reinforcement, a false promise, and the fear of exclusion.¹⁹

A 2021 report revealed that deceptive design in digital lending products obstruct opt-outs²⁰ and force consumer consent by presenting privacy notices as contracts to be agreed to.²¹ While there has been a regulatory response from the consumer protection²² and data protection regulators in Nigeria,²³ it has been limited to addressing traditional data protection and consumer protection rights violations. For instance, the data protection authority has imposed a fine on one of the digital lenders for violating the data protection regulation.²⁴ At the same time, the Federal Competition and Consumer Protection Commission (FCCPC) has obtained injunctions to freeze their accounts²⁵ and directed mobile application stores to stop hosting their apps, among other measures.²⁶ However, there has not been any recorded regulatory response from the regulatory authorities explicitly addressing the use of deceptive designs by these digital lenders. Moreover, ineffective and inadequate regulatory oversight by licensing agencies, operating outside the confines of regulation, the products' accessibility on app stores in violation of store hosting guidelines, and the lack of regulatory involvement to address deceptive design have exacerbated the issue of deceptive designs.²⁷

The thesis examines the adequacy of the existing legal framework for deceptive designs and the role of regulators in addressing the problem. The thesis further examines transparency

¹⁸ Tare Olorogun, Victoria Oresanwo and Praise Darego, 'Digital Lending and Abuse of Borrower's Rights - Multifarious and Chaotic Regulation' (*Businessday NG*, 18 November 2022) <<https://businessday.ng/news/legal-business/article/digital-lending-and-abuse-of-borrowers-rights-multifarious-and-chaotic-regulation/>> accessed 19 December 2022.

¹⁹ Adaramola and others (n.4) 35.

²⁰ *ibid.*

²¹ *ibid* 24.

²² Solomon Ekanem, 'FG Warns Fintechs to Stop Payment Services to Loan Apps' (*Pulse Nigeria*, 19 August 2022) <<https://www.pulse.ng/business/fg-warns-fintechs-to-stop-payment-services-to-loan-apps/km40517>> accessed 12 October 2022.

²³ Damilare Dosunmu, 'NITDA's ₦10 Million Sanction on Soko Loan Is Expected to Be First of Many' (*TechCabal*, 24 August 2021) <<https://techcabal.com/2021/08/24/nitda-fines-soko-loan/>> accessed 12 October 2022.

²⁴ *ibid*

²⁵ Yinka Kolawole, 'FCCPC Freezes Accounts of Digital Money Lenders' (*Vanguard News* 25 March 2022) <<https://www.vanguardngr.com/2022/03/fccpc-freezes-accounts-of-digital-money-lenders/>> accessed 19 December 2022.

²⁶ Federal Competition & Consumer Protection Commission, 'Further Update: Further and Continuing Investigation of Rights Violations in Money Lending Industry; and Release of Interim Regulatory Framework - Federal Competition & Consumer Protection Commission' (*Federal Competition & Consumer Protection Commission* 26 August 2022) <<https://fccpc.gov.ng/further-update-further-and-continuing-investigation-of-rights-violations-in-money-lending-industry-and-release-of-interim-regulatory-framework/>> accessed 19 December 2022.

²⁷ Adaramola and others (n 4) 14.

requirements in Nigeria and the EU and their relevance to the issue.²⁸ Furthermore, the thesis compares the safeguards and enforcement efforts under the European Union's Consumer Credit Directive with those in Nigeria.²⁹

The thesis will analyse five digital lending products, including Palm Pay,³⁰ Spark Credit,³¹ Diamond Credit,³² NowNowMoney,³³ and Easemoni,³⁴ to demonstrate the use and existence of deceptive designs. Finally, the thesis makes recommendations for a regulatory response.

1.3. Research questions and sub-questions

Do the Nigerian legal framework and its regulators have sufficient means to address deceptive digital lending practices?

1. How has deceptive design been used in Nigeria's digital lending ecosystem, using the five products as the case study?
2. What is the current state of consumer credit, consumer protection, and data protection laws in Nigeria about the deceptive designs identified?
3. How does the standard of protection under the Nigerian laws fare against the consumer protection safeguards provided by the European Union's Consumer Credit Directive, and how can Nigeria's legal framework better combat deceptive design in digital lending products?

1.4. Literature review

As more services migrate online, service providers have developed inventive strategies for retaining current customers and acquiring new ones while maintaining profitability. However, some retention and acquisition strategies use deceptive design interfaces to manipulate customers into making business-beneficial decisions.³⁵ Before the proliferation and widespread adoption of digital services, manipulating and deceiving consumers for financial gain existed. Harry Brignell first described and defined deceptive design, also known as "dark patterns",²⁰¹⁰ as "tricks used in websites and applications to induce unintended actions, such as

²⁸ Section 125 of Federal Competition and Consumer Protection Act.

²⁹ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC [2008] OJ L 133 22.5.2008

³⁰ PalmPay Limited, 'PalmPay - Transfers, Bills' (*Google.com*2021)

<<https://play.google.com/store/apps/details?id=com.transsnnet.palmpay&hl=en&gl=US>> accessed 18 December 2022.

³¹ Rock Financials Limited, 'SparkCredit' (*App Store*4 September 2022)

<<https://apps.apple.com/ng/app/sparkcredit/id1643132171>> accessed 18 December 2022.

³² Diamond Credit, 'Diamond Credit' (*App Store*11 October 2022)

<<https://apps.apple.com/ng/app/diamondcredit/id6443577508>> accessed 19 December 2022.

³³ NOWNOW, 'NowNow' (*Google.com*2021)

<<https://play.google.com/store/apps/details?id=com.nownow.android&hl=en&gl=US>> accessed 18 December 2022.

³⁴ EaseMoni, 'EaseMoni' (*Easemoni.com*, 2022) <<https://www.easemoni.com/>> accessed 18 December 2022.

³⁵ Amanda Manyame and Ridwan Oloyede, 'Dark Design: The Art of Deception by Design' (*Tech Hive Advisory*, 25 December 2020) 6. <<https://techhiveadvisory.org.ng/wp-content/uploads/2021/11/th-DARK-DESIGN.pdf>> accessed 28 September 2022.

purchasing or signing up for something."³⁶ Since then, the expression has sparked research, regulatory, and advocacy interests.³⁷

Researchers have attempted to develop taxonomies for the various expressions and manifestations of deceptive designs in the digital space since the terminology's inception.³⁸ These studies have documented the various applications and deployments of deceptive designs and use cases. For example, it has been identified in voice interfaces,³⁹ games,⁴⁰ cookies,⁴¹ and mobile application stores,⁴² among other things. In addition, other studies examined the impact on people and communities and⁴³ used cases in some African countries.⁴⁴ The findings showed variegated use cases, one of which was the use of urgent prompts by flight and hotel aggregators to ignite a sense of urgency in favour of the business,⁴⁵ among others.

Although there is a paucity of literature on deceptive designs in Nigeria, the thesis reviews the limited research in Nigeria alongside that from the United States and Europe. The use of deceptive designs is prevalent in Nigeria's digital lending ecosystem. As earlier noted, a 2021 report on digital lending in Nigeria found that using deceptive design by nudging consumers to provide more information, social proofing of products through positive reviews, and obstruction made it difficult for consumers to opt-out of services.⁴⁶ The report also discovered excessive use of permissions⁴⁷ and coerced consent through bundling privacy notices with the

³⁶ Harry Brignull, "Deceptive Design - User Interfaces Crafted to Trick You" (*Deceptive Design - user interfaces crafted to trick you*) <<https://www.deceptive.design/>> accessed September 2022 Brignull (n 2).

³⁷ It has been a subject of regulatory interest in the European Union through the Digital Services Act.

³⁸ Harry Brignull, "Deceptive Design - Types of Deceptive Design" (*Deceptive design - Types of deceptive design*) <<https://www.deceptive.design/types>> accessed September 29, 2022.

³⁹ Kentrell Owens and others, "Exploring Deceptive Design Patterns in Voice Interfaces" (September 2022) <<https://homes.cs.washington.edu/~kentrell/static/papers/owensEuroUSEC2022-preprint.pdf>> accessed September 2022.

⁴⁰ Dark Pattern Games, "DarkPattern.Games » Healthy Gaming « Avoid Addictive Dark Patterns" (*DarkPattern.games*) <<https://www.darkpattern.games/>> accessed September 29, 2022

⁴¹ Hanna Schraffenberger, Frederik Zuiderveen Borgesius and MoniekBorgesiusMoniek Buijzen, and Hanna Schraffenberger, "Dark and Bright Patterns in Cookie Consent Requests" (2021) (Vol 3) *Journal of Digital Social Research*.

⁴² Adaramola (n 4) 35.

⁴³ Stephanie Nguyen and Jasmine McNealy, 'The Impact of Dark Patterns on Communities of Color' (*Medium*, 17 May 2021) <<https://points.datasociety.net/the-impact-of-dark-patterns-on-communities-of-color-8063f2f9f8fe>> accessed 28 September 2022.

⁴⁴ Amanda Manyame and Ridwan Oloyede, 'Dark Design: The Art of Deception by Design' (*Tech Hive Advisory*, 25 December 2020) <<https://techhiveadvisory.org.ng/wp-content/uploads/2021/11/th-DARK-DESIGN.pdf>> accessed 28 September 2022.

⁴⁵ Adedolapo Adegoroye, Victoria Adaramola and Judy Muriuku, 'The State of Deceptive Design in Africa: Case Studies from Nigeria and Kenya' (*Tech Hive Advisory* 2022) Policy brief <<https://techhiveadvisory.org.ng/wp-content/uploads/2022/10/Deceptive-Design-Report.NG-KY.pdf>> accessed 12 October 2022.

⁴⁶ *ibid.*

⁴⁷ Adaramola and others (n 4) 26.

terms of use.⁴⁸ Although consumer protection⁴⁹ and data protection authorities⁵⁰ have responded with sanctions, they have generally been limited to data protection and consumer protection rights violations, with hardly any regulatory response specific to deceptive design.⁵¹ Additional research uncovered countdown timers, pop-ups, and fraudulent pricing schemes that create the illusion of a discount where none exists.⁵² However, in financial services, digital lending providers used the addition of hidden charges, misrepresentation of terms of use through the concealment of information, deception in consent for the use of cookies, and social proof through positive comments.⁵³ In another study, the fuzzy line between marketing strategy and deceptive design was examined, as were the rules already in place in Nigeria.

Nonetheless, a recurrent recommendation from the existing literature is to enact specific legislation to address deceptive design. Finally, different regulatory approaches have been adopted in distinct parts of the world.⁵⁴ Although no legal provision in Nigeria specifically addresses the use of deceptive design, some existing laws address its different manifestations⁵⁵ The thesis offers valuable recommendations on leveraging existing laws to address the problem instead of contemplating a new law.

1.5. The gap in literature

A recurring recommendation from the existing literature is to enact specific legislation in Nigeria to address deceptive design. However, the thesis acknowledges the difficulty and time it takes to pass legislation in Nigeria.⁵⁶ Also, there is insufficient literature about how the current Nigerian legal framework can sufficiently apply to the deceptive design practices used in the digital lending apps identified in this thesis. In addition, the available literature has not attempted a comparative study of the failure and success of laws and enforcement against deceptive design in other jurisdictions. Addressing these issues is crucial for offering a more comprehensive and accurate understanding of how to combat deceptive design practices in the digital lending ecosystem.

⁴⁸ Ibid 24.

⁴⁹ Ekanem (n 22).

⁵⁰ Dosunmu (n 23).

⁵¹ Adaramola (n 4) 14.

⁵² Adaramola, Adegoroye and Muruiku (n 44).

⁵³ *ibid.*

⁵⁴ Sean Kellogg, “How US, EU Approach Regulating ‘Dark Patterns’” (*iapp.org*, December 2020) <<https://iapp.org/news/a/ongoing-dark-pattern-regulation/>> accessed 28 September 2022, Sebastian Rieger and Caroline Sindors, ‘Dark Patterns: Regulating Digital Design’ <<https://www.stiftung-nv.de/sites/default/files/dark.patterns.english.pdf>> accessed 28 September 2022.

⁵⁵ Adaramola and others (n 4.)

⁵⁶ Sandra Musa and Samuel Ngwu, ‘Towards a Data Protection Legislative Framework in Nigeria: Accessing the Regulatory and Legislative Attempts to Enact a Data Protection Law’ (*Tech Hive Advisory*, 2021) <<https://techhiveadvisory.org.ng/wp-content/uploads/2022/07/The-legislative-journey-.pdf>> accessed 12 October 2022.

1.6. Methodology and Limitations

The thesis adopts a doctrinal legal research methodology in answering the research questions. Doctrinal legal research is used because the second and third research sub-questions require an analysis of the legal framework in Nigeria and how it addresses specific deceptive designs identified through the analysis of five digital lending applications. The analysis also looks critically at the black letter law and its enforcement, focusing on determining its adequacy in addressing the issues identified. The thesis further compares Nigeria's and the EU's consumer credit legal frameworks to identify gaps in Nigeria's law and make recommendations. The thesis relies on published reports, policy briefs, case reviews, laws, and other relevant commentaries to analyse the available data. In answering the third sub-research question, the thesis adopts a functional comparative law approach to study the EU's Consumer Credit Directive and recommend best practices for Nigeria.

The thesis has some limitations. First, the research is limited to the identified deceptive designs in the Nigerian digital lending ecosystem. The thesis does not explore the broader scope of deceptive designs in other financial services or products. As a result, while the thesis may highlight some issues in digital lending, other areas outside the scope include electronic commerce, payment processing, banking and insurance, and digital marketing. Secondly, the scope of this thesis does not extend to empirically ascertaining the impact of deceptive design on borrowers. Finally, while the research scope is limited to digital lenders using deceptive designs, the thesis will not investigate other pervasive practices, harms, risks, or abuses in the digital lending ecosystem. Therefore, more research will be required to fully comprehend the impact of deceptive design on a larger scale.

1.7. Chapter Structure

The second chapter of this thesis identifies the deceptive designs used in five digital lending applications and their impact on consumers. The third chapter addresses the second research sub-question by examining Nigeria's legal framework for deceptive design and the documented regulatory responses. The fourth chapter highlights the safeguards and standards of protection under the EU Consumer Credit Directive to demonstrate lessons for regulators in Nigeria. In addition, the chapter compares the existing legal and enforcement framework with the EU Consumer Credit Directive and makes recommendations for improving Nigeria's current framework and practices.

Chapter 2: Exploring deceptive designs in digital lending products and their possible impacts

2.1. Introduction

This chapter answers the first research sub-question of this thesis:

How has deceptive design been used in Nigeria's digital lending ecosystem, using the five products as the case study?

This chapter examines five digital lending products available in Nigeria as mobile applications through the Apple Store and Google Play Store to determine the types of deceptive design employed by each. The digital lending products are Kashcash,⁵⁷ Spark Credit,⁵⁸ Diamond Credit,⁵⁹ NowNowMoney,⁶⁰ and EaseMoni.⁶¹ The Chapter aims to determine whether the apps employ deceptive design techniques and their scope, nature, and potential impact on users. The analysis compares the deceptive designs across the products using a table and screenshots for visual illustration. The investigation of the five digital lending products' deceptive designs is the sole focus of this chapter. Further discussions in the thesis will rely on the outcome of this Chapter. On this basis, the Chapter will also explain the concept of deceptive and briefly examine the state of digital lending in Nigeria.

2.2. Understanding deceptive design

There have been different attempts to define "deceptive design." For this thesis, however, two definitions will be examined briefly. The deceptive design was first defined in 2010 by Harry Brignull as "tricks used in websites and applications to induce unintended actions, such as purchasing or signing up for something."⁶² It has also been described as "user interface design elements that may trick, deceive, or mislead users into behaviours that often benefit the party implementing the design over the end user"⁶³ The latter definition is favoured because of its inclusive language to capture different manifestations of deceptive designs used in the digital lending ecosystem and those subject to study in this thesis. For example, a report found that

⁵⁷ Kashcash, 'Kashcash-Personal Loan Online' (Google.com2021)

<<https://play.google.com/store/apps/details?id=ng.kashcash.kash&hl=en&gl=US&pli=1>> accessed 18 December 2022.

⁵⁸ Rock Financials Limited, 'SparkCredit' (App Store, 4 September 2022)

<<https://apps.apple.com/ng/app/sparkcredit/id1643132171>> accessed 18 December 2022.

⁵⁹ Diamond Credit, 'Diamond Credit' (App Store, 11 October 2022)

<<https://apps.apple.com/ng/app/diamondcredit/id6443577508>> accessed 19 December 2022.

⁶⁰ NowNow, 'NowNow' (Google.com, 2021)

<<https://play.google.com/store/apps/details?id=com.nownow.android&hl=en&gl=US>> accessed 18 December 2022.

⁶¹ EaseMoni, 'EaseMoni' (Easemoni.com, 2022) <<https://www.easemoni.com/>> accessed 18 December 2022.

⁶² Brignull Harry, 'Deceptive Design - User Interfaces Crafted to Trick You' (Deceptive.design)

<<https://www.deceptive.design/>> accessed 11 October 2022

⁶³ Owens Kentrell and others, 'Exploring Deceptive Design Patterns in Voice Interfaces' [2022] 2022 European Symposium on Usable Security 1

<<https://homes.cs.washington.edu/~kentrell/static/papers/owensEuroUSEC2022-preprint.pdf>> accessed 18 December 2022.

23% of the digital lending products examined used social proofing, manipulating people through false positive reviews.⁶⁴

2.3. Overview of the rise of digital lending in Nigeria

Digital lending providers offer credit to these excluded consumers in need without the traditional barriers imposed by orthodox financial institutions, making it easier to access credit with a few clicks.⁶⁵ Over time, digital lending has gained momentum in the country. For example, the digital lending company Carbon disclosed that it disbursed 25 billion naira (\$63 million) as loans in 2020, a 9.1% increase from the previous year.⁶⁶ In the same year, FairMoney, another digital lender with 1.3 million users, disclosed that it processed 6.5 million loan requests and disbursed \$93 million in loans.⁶⁷ Users can access digital lenders' credit offerings through mobile applications (Apps) and websites. Due to the departure from the formal documentation of traditional financial systems, digital lenders rely on data points gathered during the onboarding process.⁶⁸ However, the increasing reliance on digital lending companies has also led to the emergence of unscrupulous lenders who manipulate and deceive desperate borrowers to their advantage using deceptive designs on their websites or mobile applications.

2.4. Analysis of the Five Apps

For the analysis, the apps were downloaded and installed from their respective Play stores to identify the types of deceptive designs used, and accounts were created to gain full access to the app features. They were analysed within a week, from February 6-12, 2023, and the observations were documented. In addition, the privacy notices and terms of use were studied, and screenshots of the graphical use of deceptive designs were captured for appropriate labelling and identification. The screenshots are available under the respective subheadings. The observations focus on five deceptive design manifestations in the five apps: confirm shaming, hidden information, social proofs, deceptive information, and mortal accounts. Hidden information primarily occurs when information about the actual cost of a loan and interest rates is obscured or unclear. It also covers instances where the terms of use and privacy notice are unavailable, inconspicuous, difficult to access, bundled, vague, or not adapted for relevant context. Social proof documents where favourable wording often reinforces outright falsehoods or unverifiable statements about an app or within the app to convince the users about

⁶⁴ Adaramola and others (n.4) 35 <<https://techhiveadvisory.org.africa/wp-content/uploads/2021/11/lendtech.pdf>> accessed 28 September 2022

⁶⁵ Atkinson Wilzbach, 'Using Digital Lending Helps to Reach Businesses' (*Wolterskluwer.com*, November 2022) <<https://www.wolterskluwer.com/en/expert-insights/using-digital-lending-helps-to-reach-small-businesses>> accessed 26 February 2023.

⁶⁶ Kene-Okafor Tage, 'Nigerian Digital Bank Carbon Hit \$240M in Payments Processed Last Year, up 89% from 2019' (*TechCrunch*, February 2021) <<https://techcrunch.com/2021/02/01/nigerian-digital-bank-carbon-hit-240m-in-payments-processed-last-year-up-89-from-2019/>> accessed 26 February 2023.

⁶⁷ Kene-Okafor T, 'With over 1.3 Million Users, Nigerian-Based Fintech FairMoney Wants to Replicate Growth in India' (*TechCrunch*, 18 February 2021) <<https://techcrunch.com/2021/02/18/with-over-1-3-million-users-nigerian-based-fintech-fairmoney-wants-to-replicate-growth-in-india/>> accessed 26 February 2023.

⁶⁸ Olumuyiwa Olowogboyega, 'The Race Is on to Improve Data for Lenders in Nigeria' (*TechCabal* 6 January 2021) <<https://techcabal.com/2021/01/06/digital-lenders-need-data/>> accessed 5 March 2023.

the credibility or quality of the app. Deceptive information documents where falsehood or tricky questions are used to misrepresent and mislead and where preselected options are used to steer the users into taking up loan offers or understating the actual state of service offerings—mortal accounts documents where users are not allowed to delete their account or difficult-to-delete accounts. Finally, confirm shaming profile instances where marketing phrases are used to manipulate or nudge users by harassing or shaming them into taking loan offers.

2.4.1. Spark Credit

Different examples of deceptive design were found while analysing Spark Credit. For example, when opening the app for the first time, the user must agree to the app's privacy notice and accept the default permissions. The user cannot re-access the privacy notice after they have accepted it. The app also employs deceptive notices that force users to accept their privacy notice and disguise it as a contractual agreement rather than a notice evidencing the digital lending app's processing activities. You can also tell that the app's privacy notice has not been adapted to the Nigerian context because it states that it conforms to the Data Privacy Act of 2021, which does not exist in Nigeria.

The application also uses preselected options to compel users to accept its terms and conditions and privacy notice. From the app reviews available on the app store, it also employs unfair pricing mechanisms and hides costs from users. Users are usually under the misapprehension that the total interest rate charged is 0.5% until after the loan is disbursed. Then, they are requested to pay higher interest rates, which the app owners falsely claim is stated in the terms of use. However, once the user is forced to accept the terms of use upon opening the app, they can no longer access it. The only information prioritised and made known to users is a 0.5% interest rate, creating a false information hierarchy. The app's privacy notice also states that users may delete their accounts; however, the application provides no avenue for users to do so within the app, contrary to Apple App Store hosting rules.⁶⁹

Also, the app requests permission to track users' activity across other apps to notify users as soon as their interest rate or quota increases. In practical terms, permission to track the user is not necessary to provide the user with updates on product offerings. On opening the app, users are also forced through a four-stage registration process before accessing the offerings and interest rates applicable to them, which obscures information. Furthermore, when users opt-out midway through entering their data, they are shamed into continuing the process with the message, "Don't give up! Fill in a little more information, and you'll get the money."

⁶⁹ 'Offering Account Deletion in Your App - Support - Apple Developer' (*Apple.com*2022) <<https://developer.apple.com/support/offering-account-deletion-in-your-app/>> accessed 7 April 2023.

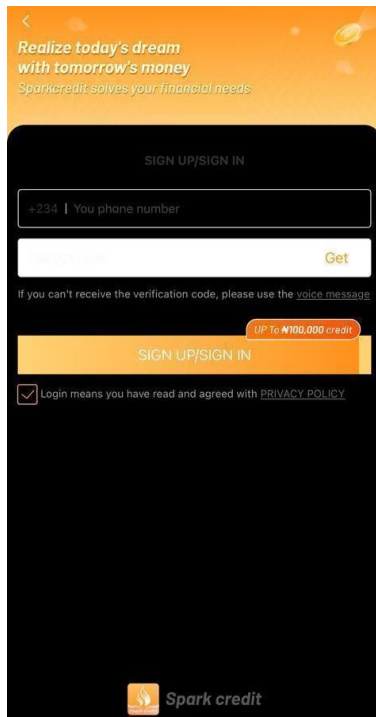


Figure 1

Figure 1: Forced registration.

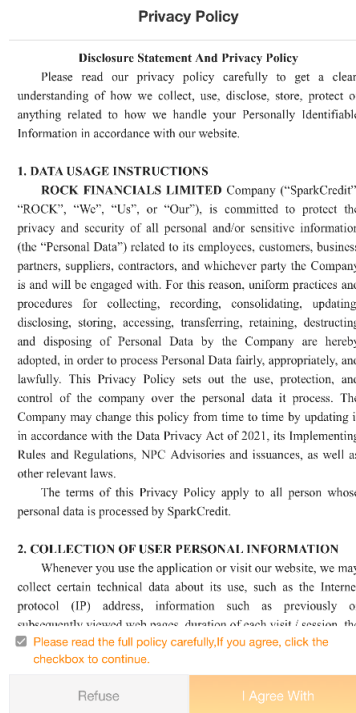


Figure 2

Figure 2: Deceptive information and notice (forced consent)

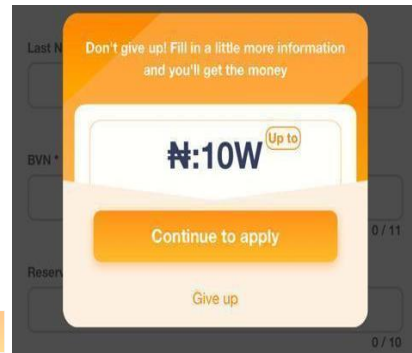


Figure 3

Figure 3: Confirm shaming.

2.4.2. Diamond Credit

The app forces users to accept permissions and consent to its privacy notice for first-time users upon opening the app. The app uses social proof to pressure users into taking loans through a dashboard that indicates that other unverifiable users either applied for or got loans from the app owners. The app's privacy notice also states that users may delete their accounts; however, the application provides no avenue for users to do so within the app, making the delete account option untrue. After opening the app, users are informed that it takes five minutes to get a loan; however, once they opt to take a loan, they are forced through a five-stage registration process, which takes longer than the initial promise. Furthermore, when users opt-out midway through entering their data, they are shamed and pressured into continuing the process. Upon reaching the final stage of the application and collecting the “user’s data, users are required to pay a service fee, which they were not informed about earlier. Finally, the privacy notice alludes to the provision for a user to delete their account; however, the app does not make provision for an account deletion or cancellation process.

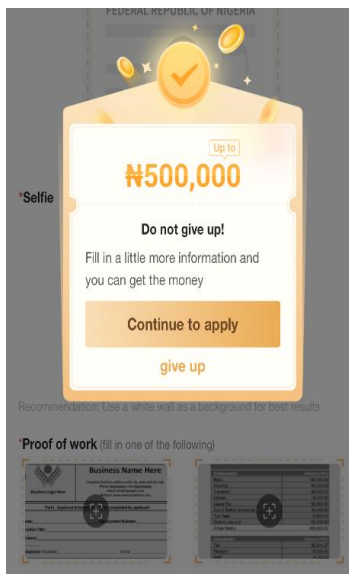


Figure 4

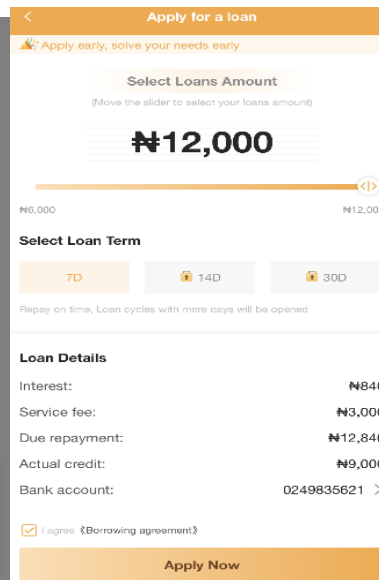


Figure 5

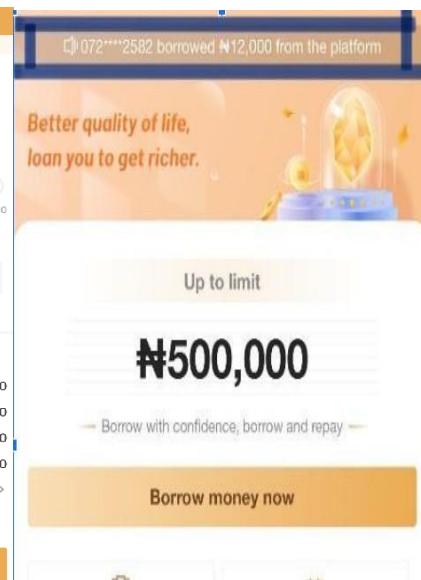


Figure 6

Figure 4: Confirm shaming.

Figure 5: Hidden cost

Figure 6: Social proof

2.4.3. NowNowMoney

The app forces users to accept permissions and consent to its privacy notice for first-time users upon opening the app. After accepting the privacy notice, users do not have the opportunity to re-access the privacy notice. The app uses hidden information, with interest rates not disclosed until users have disclosed a sizable amount of their data and are about to get the loan. Users are only informed at the point of collection that they are expected to pay a 21% interest loan in less than seven days at the final stage of obtaining the loan. Additionally, the app's terms of use suggest that users are expected to pay transactional fees and extra charges in cases of defaulting loans; however, the transaction fee and the actual cost of the default are not stated in terms of use. Social proof is also used to pressure users into taking loans through a dashboard indicating that other unverifiable users either applied for or got loans from the app owners.

The app also uses "confirm shame" to pressure users to continue providing their data towards obtaining a loan at their exit point. The app's privacy notice also falsely claims that it does not share user data with anyone. It also states that they share data with their affiliates, third-party payment providers, and the credit bureau. This is contradictory and misleading.

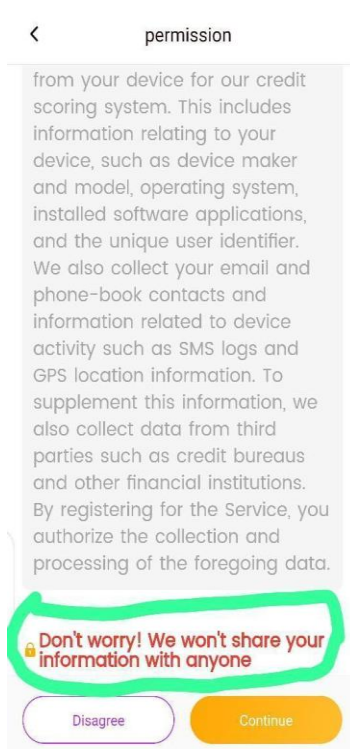


Figure 7

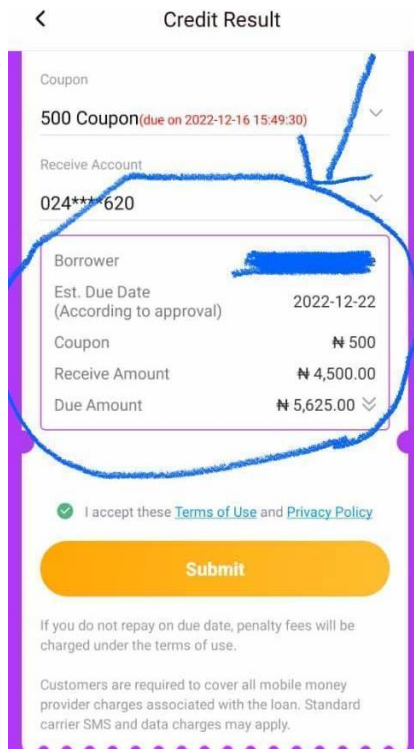


Figure 8

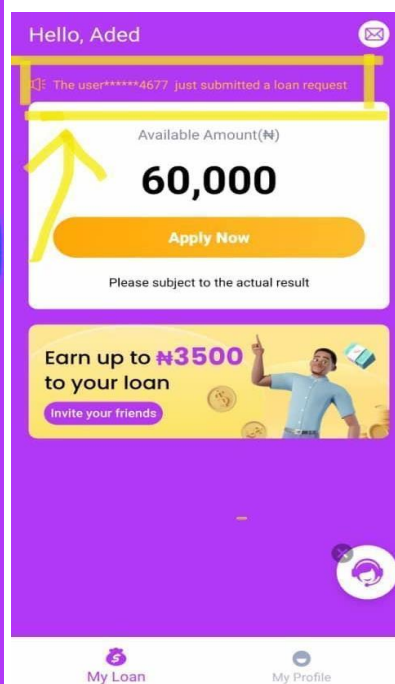


Figure 9

Figure 7: Deceptive information (misrepresentation of information)

Figure 8: Hidden information (hidden cost)

Figure 9: Social proof

2.4.4. EaseMoni

The app uses misleading information by asking trick questions and disallowing users from refusing permission. The app provides two options for the use of permissions "Yes" and "Let me think," as opposed to a "yes" or "no" option. When users refuse permissions, they receive a pop-up that only allows them to accept permissions; users must click "I know" to respond to a request for consent to use permissions to get to the next registration stage. The app also uses an assorted colour for the accept button, which is more pronounced with a bigger font size than what is used for the "reject" button. The app's permissions give users no choice because they receive constant pop-ups while using the app until they are accepted. No specific interest rate is stated before users provide all their data to the app owners, which translates into hidden information.

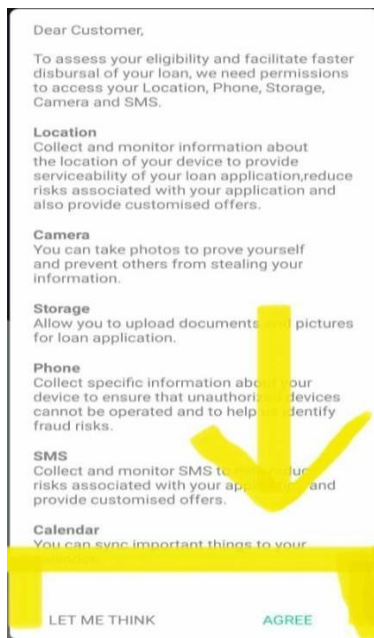


Figure 10:

Figure 10: Deceptive notice (tricky question)

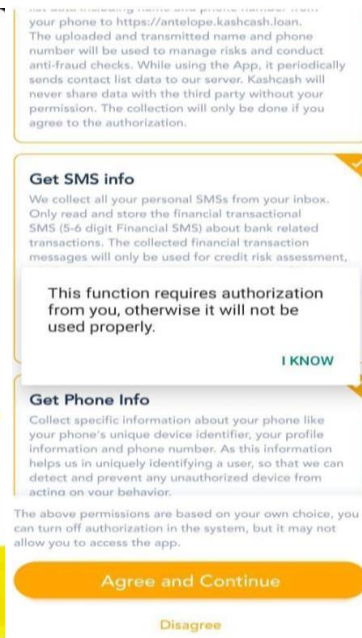


Figure 11

Figure 11: Colour scheme (forced consent)



Figure 12

Figure 12: Hidden information (hidden cost)

2.4.5. Kashcash

Kashcash displays different deceptive design techniques. For example, permission prompts explain the reason for specific permission requests on downloading and opening the app even before a privacy notice is made available. However, it is not always the case that the permission notice matches the request. For example, without any notice as to the permission granted, when a user grants permission to the calendar, Kashcash users automatically begin to receive continuous reminders from their calendar that they have an available loan offer, which was not disclosed at the point of sign-up.

The app offers no alternatives if users refuse any of the permission requests. The privacy notice provided is couched as a contractual agreement instead of a notice that should communicate Kashcash's processing activities. There is also no provision for users to delete already created accounts, so even when a user deletes the application, they keep receiving messages about the service. In addition, the app also uses deceptive notices, as the privacy notice is hidden and inaccessible to the user immediately after the user agrees to it.

Although the app does not use pre-ticked boxes, the colour scheme used for the "accept" button is more pronounced with a bigger font size than what is used for the "reject" button. In addition, Kashcash is not transparent about its pricing mechanisms because it seeks to access a 'user's phone and collect the 'user's details, including the 'user's payment card details (a debit card), without displaying its interest rates and repayment details. In addition, the app does not provide

a user with terms and conditions, leaving users with a substantial knowledge gap on the activities and terms on which they are taking loans.

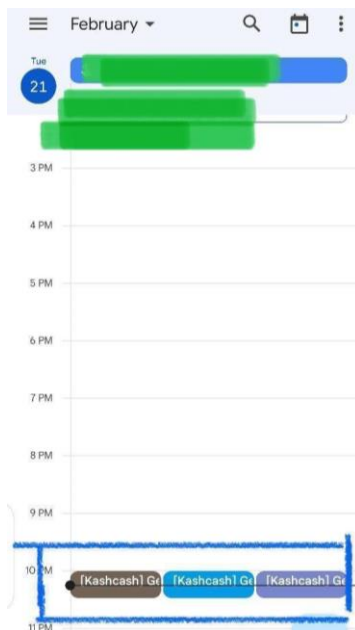


Figure 13

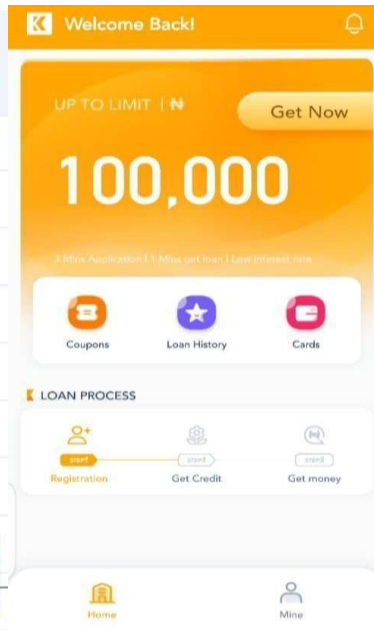


Figure 14

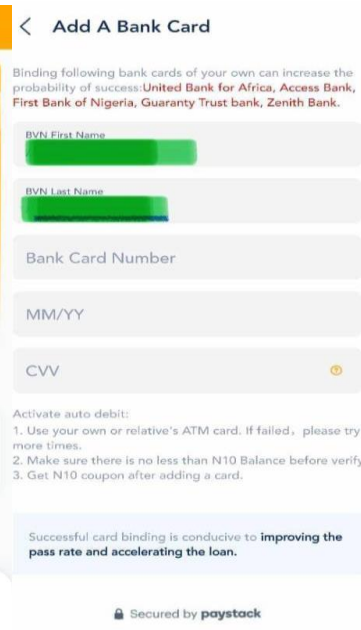


Figure 15



Figure 16: Hidden information

Figure 13: Hidden information

Figure 14: Hidden information

Figure 15: Hidden information

Figure 16: Deceptive notice (deceptive permission)

2.5. Table 1: Digital lending apps and the types of deceptive designs employed

Deceptive design use cases	Digital Lending Apps				
	Spark Credit	Diamond Credit	Nownow Money	EaseMoni	Kashcash
Hidden information (hidden costs, misleading interest rates and fees, hidden terms and conditions and privacy notices)					
Social proofs					
Deceptive information (tricky questions, preselected choices, and deceptive notices)					
Immortal accounts					
Confirm shaming					

	Present
	Absent

2.5.1. Summary of the table: Digital lending apps and the types of deceptive designs employed

The analysis found different expressions of deceptive designs in the apps. Below is the summary of the findings:

- Four (4) of the five apps were unclear about their interest rates. Two (2) of the apps used social proof by using popups to show that other unverifiable users were taking loans every five (5) to ten (10) seconds.
- Four (4) hid information about the cost of getting the loan from users and only provided the interest rates when users had already provided all their data and consented to the use of permissions from the app.
- Three (3) apps used deceptive notices, forcing consumers to accept the privacy notices. Moreover, they couched the notice as an agreement instead of a transparency statement evidencing the digital lending app's processing activities.
- One (1) app used tricky questions, with users having no option of rejecting permission.
- Two (2) apps also used preselected choices, with users having no real consent option.
- Three (3) apps hid their privacy notices out of sight and did not give users access to the privacy notice after forcing them to accept it.
- All five (5) apps used immortal accounts that provided no option for account deletion.
- Three (3) apps used confirm shaming by stating that users were giving up on obtaining their loan at points of exit from the app.

2.6. The impact of deceptive design on Nigerian borrowers

While it is not within the scope of this thesis to empirically ascertain the impact of deceptive design on borrowers, the noticeable trend from the use cases documented in the apps analysed may impact users in diverse ways.

2.6.1. Financial burden and debt

Hiding information about how interest rates are computed can keep consumers in a cycle of debt that never ends.⁷⁰ Often, they end up paying more than expected. The lack of transparency surrounding the disclosure of interest rates may also negatively harm users' credit scores.⁷¹ The use of hidden costs obscures the actual costs of a loan, making it difficult for users to make informed decisions regarding whether to obtain a loan. In addition, this type of deceptive design can make it difficult for users to comprehend the terms and conditions of a loan, leading them to accept loans with high-interest rates or hidden fees.⁷² This can increase users' debt burden and make it challenging to repay the loan, potentially resulting in financial hardship. For example, Nownowmoney only informs users at the point of collection and after complete registration on the app, which entails providing personal data, including financial information, that they are expected to pay a 21 % interest loan in less than seven days at the final stage of

⁷⁰ Amos Abba, 'How Fintech Loan Sharks in Nigeria Cyberbully, Trap Customer in Debt | the ICIR- Latest News, Politics, Governance, Elections, Investigation, Factcheck, Covid-19' (October 2021) <<https://www.icirnigeria.org/how-fintech-loan-sharks-in-nigeria-cyberbully-trap-customers-in-debt/>> accessed 28 February 2023, Maria Gabriela Coloma Ponce de Leon, 'Digital Lending in Kenya: Willingness vs. Capacity to Repay | Center for Financial Inclusion' (2021) <<https://www.centerforfinancialinclusion.org/digital-lending-in-kenya-willingness-vs-capacity-to-repay>> accessed 28 February 2023.

⁷¹ Morris Kiruga, 'This Lending App Loves You until You're Late on a Payment. Then the Shaming Begins.' (*Rest of World* 26 May 2020) <<https://restofworld.org/2020/okash-microlending-public-shaming/>> accessed 28 February 2023.

⁷² Ifeoluwa Aigbiniode, 'The Burden of Debt: A brief look into the rise of digital lending platforms in Indonesia and Nigeria' (18 November 2022) <<https://www.combine.or.id/2022/11/18/the-burden-of-debt-a-brief-look-into-the-rise-of-digital-lending-platforms-in-indonesia-and-nigeria/>> accessed 10 July 2023

obtaining the loan. Furthermore, users are unaware of the cost of transactional fees or extra charges in the event of loan defaults, implying that they are not fully aware of the financial implications of using the app.

2.6.2. Erosion of decisional autonomy

When false information or negative language is used, it is hard to tell which options are advantageous or disadvantageous. This makes it more likely that users will make bad decisions. This is done to make a loan offer appear more desirable or urgent than it is. For example, a lender might say that a loan is only available for a limited time or that it is an exclusive offer when it is a standard product that is always available. For instance, using social proof in apps through testimonials has only one result: manipulating the user into trusting and accepting the loan. Nownowmoney and Diamond Credit use pop-ups to display unverifiable testimonials from users claiming to have obtained loans through the apps. These pop-ups are displayed every five to ten seconds. Such unreliable information induces users to want to take out loans because they believe other users have already done so.

The visual cues persuade users to make predetermined decisions favouring the digital lending company, which undermines autonomy.⁷³ Thaler and Sunstein advocate nudging theory as a behavioural economics concept that suggests that subtle, indirect suggestions can significantly influence people's decision-making processes.⁷⁴ Deceptive designs manipulate people's cognitive biases into making decisions that are not always in their best interests.⁷⁵ Digital lending platforms use these techniques to entice users to borrow more money than they need or can afford, sign up for loans with unfavourable terms, or unknowingly agree to hidden charges. Using social proof as an example, Diamond Credit and NowNow use heuristics and nudging to encourage consumers to make impulsive borrowing decisions. In addition, when privacy notices and terms and conditions are bundled or preselected, as with Easimoni and Sparkcredit, users are deprived of the autonomy necessary to make an informed decision regarding the loan offers and the amount of information collected through the app.⁷⁶

2.6.3. Misrepresentation of quality of product

The use of confusing or misleading terms and conditions makes it difficult for users to understand the terms and conditions of a loan, increasing the likelihood that they will agree to terms that are not in their best interests. For example, the use of bright colours on buttons, the lack of options, the use of small or hidden text, confusing language, or complicated jargon in

⁷³ Daniel M Hausman, 'Nudging and Other Ways of Steering Choices' (2018) 2018 Intereconomics 17 <<https://www.intereconomics.eu/contents/year/2018/number/1/article/nudging-and-other-ways-of-steering-choices.html>> accessed 9 April 2023.

⁷⁴ Richard Thaler and Cass Sunstein, *Nudge: Improving Decisions about Health, Wealth, and Happiness* (Yale University Press 2008)

⁷⁵ Ari Ezra Waldman, 'Cognitive Biases, Dark Patterns, and the "Privacy Paradox"' (2020) 31 Current Opinion in Psychology 106 <<https://www.sciencedirect.com/science/article/pii/S2352250X19301484>> accessed 10 July 2023.

⁷⁶ Daniel Susser, Beate Roessler and Helen Nissenbaum, 'Technology, Autonomy, and Manipulation' (2019) 8 Internet Policy Review <<https://policyreview.info/articles/analysis/technology-autonomy-and-manipulation>> accessed 9 April 2023.

the terms and conditions of some of these apps make it difficult for users to understand what they agree to. Easimoni, for instance, uses a bright orange colour and large fonts to highlight and make the "accept" consent button more appealing than the "reject" consent button, which is placed against the app's white background and has a much smaller font size.

2.6.4. Unwanted data sharing

Bundling and forcing consent without real alternatives tricks users into agreeing to market or share data they may not want. For instance, SparkCredit customers have complained about receiving unsolicited communications from other loan providers and entities.⁷⁷ The analysis also illustrates how the inability to delete accounts allows the digital lending company to retain the data without restriction. Digital lenders take advantage of users' cognitive biases by using hidden information, social proofing, deceptive information, and excessive permissions, which can lead to privacy violations and unauthorised use of their data. Kashcash, NowNowMoney, and Sparkcredit make it difficult for users to provide informed consent by obscuring the terms and conditions or privacy notices. Users may agree to share their data or grant access to sensitive information without fully comprehending the implications.⁷⁸ For example, even after deleting the Kashcash app, users continue to receive loan-related advertisements, and the app has access to the user's calendar, which goes beyond the scope of obtaining a loan and violates the principle of data minimisation.

Deceptive design can lead to unauthorised data sharing. Personal information may be shared with marketers, data brokers, or other financial institutions, resulting in unwanted solicitations, targeted advertising, or discriminatory practices.⁷⁹ Immortal accounts by all the apps, which make deleting accounts within the app difficult or impossible, can lead to users granting access to their data without the ability to revoke it easily, resulting in users losing control over their data and potentially causing long-term privacy concerns. In addition, it is also a failure to implement the right to deletion within the app design. Due to the excessive use of permissions on the user's device, contacts on the user's phone, like family members, employers, and friends, are contacted⁸⁰ by digital lenders in the event of a default to shame, threaten, and pressure the

⁷⁷ Rock Financials Limited, 'SparkCredit' (*App Store*, 4 September 2022)

<<https://apps.apple.com/ng/app/sparkcredit/id1643132171?see-all=reviews>> accessed 28 February 2023

⁷⁸ Nita Bhalla, "'Silicon Savannah' Kenya Targets Loan Apps Abusing Customer Data' (*Context.news* 19 January 2022) <<https://www.context.news/digital-rights/kenya-cracks-down-on-loan-apps-abusing-customer-data>> accessed 9 April 2023.

⁷⁹ Anushka Sengupta, 'Unlawful Fintech Lenders Identified as Top Risk Followed by Cyber Risks and Data Privacy: Survey - ET BFSI' (ETBFSI.com) <<https://bfsi.economictimes.indiatimes.com/news/fintech/unlawful-fintech-lenders-identified-as-top-risk-followed-by-cyber-risks-and-data-privacy-survey/97120590>> accessed 9 April 2023.

⁸⁰ Amos Abba, 'Nigerian Fintech Companies Shame, Threaten Customers for Late Payment of Loans | the ICIR- Latest News, Politics, Governance, Elections, Investigation, Factcheck, Covid-19' (*The ICIR- Latest News, Politics, Governance, Elections, Investigation, Factcheck, Covid-19* 29 August 2021) <<https://www.icirigeria.org/nigerian-fintech-companies-shame-threaten-customers-for-late-payment-of-loans/>> accessed 9 April 2023.

borrower into repayment.⁸¹ As a result, users have reportedly been driven to depression and suicide,⁸² as well as discrimination and social exclusion⁸³ due to the humiliation.⁸⁴

2.6.5. Difficulty in accessing credit.

Deceptive design can also create barriers for users attempting to obtain credit through traditional digital lending platforms. Users may be discouraged from applying for loans or unable to access loans for which they are eligible if they are put off by a confusing or misleading design. This can erode trust in the digital lending market, making it more difficult for people to obtain or even build their credit scores. This is clear from reviews that Nigerian users have left online on websites, social media, and even app hosting services.⁸⁵ Furthermore, the government has made significant financial and policy investments in enabling financial inclusion,⁸⁶ making it difficult for consumers to access credit runs counter to the same spirit of financial inclusion these digital lenders champion. The result is contrary to the government's policy direction. Furthermore, while digital lending has promoted financial inclusiveness, it is also forcing consumers into a debt trap.⁸⁷

2.7 Conclusion

The analysis has shown that digital lenders in Nigeria use various kinds of deceptive designs in diverse ways. Deceptive design in digital lending can have various adverse effects on digital lending users in Nigeria, including eroding users' trust and confidence in the lending industry and causing financial harm and other adverse outcomes for users. In the end, deceptive design can erode users' trust in the lending industry, reducing their likelihood of using digital lending services. This loss of trust can also have broader effects on the Nigerian financial sector, reducing the overall adoption of digital financial services in a country attempting to address wide disparities in financial inclusion.

In the digital lending ecosystem, deceptive design can affect a brand's or platform's reputation, decreasing the likelihood of future customer engagement and eroding trust. Furthermore, it can

⁸¹ Aigbiniode n(72)

⁸² Emmanuel Akinwotu, 'Their Weapon Is Your Shame': Toxic Abuse from Nigeria's Loan Sharks' (*the Guardian* 9 March 2022) <<https://www.theguardian.com/world/2022/mar/09/their-weapon-is-your-shame-toxic-abuse-from-nigerias-loan-sharks>> accessed 9 April 2023.

⁸³ Nzekwe Henry, 'Mobile Loan Sharks' And 'Social Shaming' Invade Nigeria Unchallenged' (*WeeTracker*, 26 July 2021) <<https://weetracker.com/2021/07/26/mobile-lending-nigeria/>> accessed 9 April 2023

⁸⁴ 'How What an Online Lenders' Crude, Offensive Tactics Push Borrowers into Depression, Suicide (1)' (*Punch Newspapers*, 8 March 2022) <<https://punchng.com/how-online-lenders-crude-offensive-tactics-push-borrowers-into-depression-suicide-1/>> accessed 9 April 2023

⁸⁵ Kunle Sanni, 'INVESTIGATION: How Digital Loan Providers Breach Data Privacy, Violate Rights of Nigerians' (*Premium Times Nigeria* 10 December 2021) <<https://www.premiumtimesng.com/news/headlines/499999-investigation-how-digital-loan-providers-breach-data-privacy-violate-rights-of-nigerians.html?tztc=1>> accessed 1 March 2023

⁸⁶ 'Fintech in Nigeria | McKinsey' <<https://www.mckinsey.com/featured-insights/middle-east-and-africa/harnessing-nigerias-fintech-potential>> accessed 9 April 2023

⁸⁷ Pengpeng Yue and others, 'The Rise of Digital Finance: Financial Inclusion or Debt Trap?' [2021] *Finance Research Letters* 102604. 5 <<https://arxiv.org/ftp/arxiv/papers/2201/2201.09221.pdf>> accessed 29 May 2023

disproportionately impact vulnerable populations such as the elderly, desperate loan seekers,⁸⁸ those with limited digital literacy, or those with limited education. It can potentially contribute to the digital divide by exacerbating the difficulties those with limited digital literacy face.⁸⁹ These populations may be more vulnerable to manipulation, which could lead to increased exploitation. Consequently, these individuals may be more likely to avoid online services, widening the divide between those who can and cannot use digital technologies. Finally, lenders must be transparent and ethical in their design decisions to build trust with users and encourage the responsible use of digital financial services.

Chapter 3: Overview of the Legal Framework for Deceptive Design in Nigeria's Digital Lending Ecosystem

3.1. Introduction

This chapter attempts to answer the thesis' second research sub-question:

What is the current state of consumer credit, consumer protection, and data protection laws in Nigeria in relation to the deceptive designs identified?

This chapter will examine Nigeria's legal framework for deceptive design by analysing relevant legal provisions. The chapter analyses the legal requirements under relevant laws on consumer protection and how the deceptive practices identified in Chapter 2 violate the legal requirements. The analysis aims to show how the legal framework adequately addresses the issues identified in Chapter 2 and highlights the primary cause of the setback.

The chapter will discuss the provisions of the following laws on deceptive designs:

- a. Federal Competition and Consumer Protection Act 2018.
- b. Nigeria Data Protection Regulation 2019.
- c. Credit Reporting Act 2017.
- d. CBN Consumer Protection Guidelines on Responsible Business Conduct 2019.
- e. Central Bank of Nigeria Consumer Protection Regulation 2019.
- f. FCCPC Guidelines on Digital Lending.

3.2. Contextualising deceptive design and relevant legal provisions

This subsection highlights critical provisions of the relevant consumer protection and data protection laws and how they address deceptive designs.

⁸⁸ David Medine, 'Making the Case for Privacy for the Poor | Blog | CGAP'

<<https://www.cgap.org/blog/making-case-for-privacy-for-poor>> accessed 9 April 2023

⁸⁹ Mette Marie Næser Seldal, Ellen K. Nyhus, 'Financial Vulnerability, Financial Literacy, and the Use of Digital Payment Technologies' [2022] ResearchGate

<https://www.researchgate.net/publication/359064372_Financial_Vulnerability_Financial_Literacy_and_the_Use_of_Digital_Payment_Technologies> accessed 9 April 2023.

3.2.1. Lack of informed consent

Consent is one of the lawful bases for processing personal data under the Nigeria Data Protection Regulation (NDPR),⁹⁰ and it is expected to be freely given without fraud, coercion, undue influence, or ambiguity. In addition to obtaining consent, the specific purpose of processing should also be clearly stated.⁹¹ Section 9(4) of the Credit Reporting Act (CRA) restricts all data sharing or disclosure forms to third parties except with the data subject's prior consent or a data-sharing agreement. The sharing must be for permissible purposes only, and the condition for valid consent under the CRA is what is obtainable under the NDPR. Section 9(4) of the CRA also states that a data subject's consent is only valid for the specific transaction or purpose for which it was obtained and should lapse immediately after the transaction is completed.⁹² This means consent is limited to specific transactions or a particular service from a service provider and is not an automatic checkbox for all other services the service provider offers.

The Central Bank of Nigeria Consumer Protection Regulation 2019 also provides for the protection of personal data and the privacy of consumers. Again, consent is essential for processing, transferring, and sharing personal data with third parties.⁹³ Another important aspect of this right that digital lenders ignore is the right to withdraw consent. The consumer does not need any reason to exercise this right. The data controller is obligated to inform the data subject, before giving consent, of their rights and the method of withdrawing consent at any time.⁹⁴

Thus, where a consumer is manipulated to give consent using tricky questions or preselected options, the lawful requirements and procedure for consent cannot be said to have been fulfilled. The analysis in Chapter 2 found the use of unclear and ambiguous messages to obtain consent for marketing. For example, Spark Credit uses default permission on its mobile application, which is not valid consent,⁹⁵ while Easi Moni uses tricky questions to elicit consent.⁹⁶ In addition, using colours and persistent pop-ups may trick users into providing consent without fully understanding the implications, violating the informed and explicit consent requirement.⁹⁷ Furthermore, the unauthorised use of personal data has become a common practice among digital lenders. Family members of debtors have complained about

⁹⁰ Nigeria Data Protection Regulation < <https://nitda.gov.ng/wp-content/uploads/2020/11/NigeriaDataProtectionRegulation11.pdf> > accessed 10 April 2023, See also Articles 2.2(a) and 2.3

⁹¹ Articles 2.3 (1) and (2) (c)

⁹² Credit Reporting Act, section 9(4)

⁹³ CBN Consumer Protection Regulation 2019, Regulation 5.4.

⁹⁴ Nigeria Data Protection Regulation Paragraph 2.3(2) (c).

⁹⁵ Figure 2, Chapter 2

⁹⁶ Figure 10, Chapter 2

⁹⁷ Colin M.Gray and others, 'Dark Patterns and the Legal Requirements of Consent Banners: An Interaction Criticism Perspective' [2021] CHI Conference on Human Factors in Computing Systems (CHI '21) <<https://www.sop.inria.fr/members/Natalia.Bielova/papers/Gray-et-al-21-CHI.pdf>> accessed 11 April 2023

being harassed with calls and unsolicited messages to compel repayment.⁹⁸ Consent to contact family members is invalid, as nothing in the permission notice, terms of use, or privacy notice indicates that family members will be contacted or harassed.

In the last few years, complaints against some digital lending companies' abusive and pervasive activities have increased, leading to some regulatory and industry-led responses to stem the tide. A digital lender named Sokoloan was fined ten million naira (USD 21,715) in 2021 by the National Information Technology Development Agency (NITDA), the data protection authority, for using a privacy notice that did not comply with the NDPR's rules due to, among other things, a lack of an appropriate legal basis for processing and unauthorised data sharing.⁹⁹ In 2023, a Nigerian High Court recently issued a fine of five million naira (USD 10,857) against the same company for sending unsolicited messages.¹⁰⁰

In November 2021, the FCCPC and five other government agencies formed an inter-regulatory task force to "address multiple potentially dubious conducts of certain money lenders."¹⁰¹ The collaboration resulted in a crackdown on some digital lenders in March 2022.¹⁰² First, the FCCPC obtained a court injunction from the federal high court, which resulted in the FCCPC visiting and sealing the premises of some of the digital lenders.¹⁰³ As part of the injunction, Google and Apple were also ordered to remove any applications "where evidence has established inappropriate conduct or use of the application in violation of consumer rights."¹⁰⁴ Then, in May 2022, the FCCPC established a joint mutual enforcement desk for consumer data protection with the Nigeria Data Protection Bureau, which functions as the data protection

⁹⁸ Amos Abba, 'Nigerian Fintech Companies Shame, Threaten Customers for Late Payment of Loans | the ICIR- Latest News, Politics, Governance, Elections, Investigation, Factcheck, Covid-19' (*The ICIR- Latest News, Politics, Governance, Elections, Investigation, Factcheck, Covid-19* 29 August 2021) <<https://www.icirnigeria.org/nigerian-fintech-companies-shame-threaten-customers-for-late-payment-of-loans/>> accessed 11 April 2023.

⁹⁹ 'NITDA Sanctions SokoLoan for Privacy Invasion – NITDA' (*Nitda.gov.ng* 17 August 2021) <<https://nitda.gov.ng/nitda-sanctions-soko-loan-for-privacy-invasion/4914/>> accessed 11 April 2023.

¹⁰⁰ Olumide Babalola v Soko Lending Company Limited (LD/13031MFHR/2022) <<https://barristerng.com/wp-content/uploads/2023/03/OLUMIDE-BABALOLA-VS-SOKOLOAN-JUDGEMENT.pdf>>

¹⁰¹ 'FCCPC, ICPC, EFCC, NITDA, NHRC and CBN to Jointly Investigate Rights Violations in Money-Lending Industry. - Federal Competition & Consumer Protection Commission' (*Federal Competition & Consumer Protection Commission* 15 November 2021) <<https://fccpc.gov.ng/fccpc-icpc-efcc-nitda-nhrc-and-cbn-to-jointly-investigate-rights-violations-in-money-lending-industry/>> accessed 11 April 2023.

¹⁰² Oluwakemi Adelagun, 'Nigeria's Consumer Protection Agency Cracks down on Digital Loan Firms' (*Premium Times Nigeria* 11 March 2022) <<https://www.premiumtimesng.com/news/headlines/516749-nigerias-consumer-protection-agency-cracks-down-on-digital-loan-firms.html>> accessed 11 April 2023.

¹⁰³ 'FCCPC, ICPC, EFCC, NITDA, NHRC and CBN to Jointly Investigate Rights Violations in Money Lending Industry: Initial Enforcement Operations by Joint Task Force (FCCPC, NITDA and ICPC) - Federal Competition & Consumer Protection Commission' (Federal Competition & Consumer Protection Commission 14 March 2022) <<https://fccpc.gov.ng/fccpc-icpc-efcc-nitda-nhrc-and-cbn-to-jointly-investigate-rights-violations-in-money-lending-industry-initial-enforcement-operations-by-joint-task-force-fccpc-nitda-and-icpc/>> accessed 11 April 2023.

¹⁰⁴ Sodiq Oyeleke, 'FG Orders Google, Apple to Deactivate "illegal" Online Banks, Loan Apps' (*Punch Newspapers*, 14 March 2022) <<https://punchng.com/fg-orders-google-apple-to-deactivate-illegal-online-banks-loan-apps/>> accessed 10 July 2023.

authority.¹⁰⁵ Later that year, the FCCPC published the Limited Interim Regulatory/Registration Framework for Digital Lending, which created a licensing regime requiring digital lenders to disclose information relating to their businesses and operations and show evidence of compliance with the data protection law to provide a more potent oversight mechanism.¹⁰⁶ Finally, in April 2023, it licensed 173 digital lending platforms.¹⁰⁷

Aside from regulatory efforts, the industry plays a significant role in self-regulation. For example, Google announced in November 2022 that it would ban digital lending apps that are not licensed.¹⁰⁸ In March 2023, it announced it had pulled down hundreds of apps in Kenya.¹⁰⁹ In April, it announced it would prevent digital lending apps access to private information including contacts, images, and videos, in April.¹¹⁰ Furthermore, Google announced that from May 2024, it will not allow any app on its Play Store that fails to implement measures allowing consumers to delete their data within the app. The successful implementation will help force industry-wide compliance among digital lenders.¹¹¹ Finally, in April 2023, after the announcement, the FCCPC announced that it would be enforcing Google's announcement.¹¹²

3.2.2 Lack of transparency

Transparency is the bedrock of consumer trust and fairness. Consumer protection laws often require businesses to be transparent in their dealings with consumers, providing clear and correct information about their products or services. The FCCPA provides transparency in dealings with consumers, and this requirement is mandatory for vendors and service providers. Under the FCCPA, a consumer can be given information in plain and understandable language.¹¹³ This suggests that vendors must provide information in a language that the target market for the goods can understand to avoid confusion. The Act also provides that prices of

¹⁰⁵ William Ukpe, 'FCCPC, NDPB Establish Joint Mutual Enforcement Desk for Data Protection of Customers' (Nairametrics 21 May 2022) <<https://nairametrics.com/2022/05/21/fccpc-ndpb-establish-joint-mutual-enforcement-desk-for-data-protection-of-customers/>> accessed 11 April 2023.

¹⁰⁶ 'FCCPC Regulations for Digital Lenders' (Lendsqr | Lending-as-a-Service 19 September 2022) <<https://blog.lendsqr.com/fccpc-regulations-for-digital-lenders/>> accessed 11 April 2023.

¹⁰⁷ 'The Status of Registration of Fintech/Digital Companies with FCCPC on the Limited Interim Regulatory/Registration Framework and Guidelines for Digital Lending 2022 - Federal Competition & Consumer Protection Commission' (*Federal Competition & Consumer Protection Commission* 8 April 2023) <<https://fccpc.gov.ng/registration-status-for-digital-money-lenders-apps/>> accessed 11 April 2023.

¹⁰⁸ 'Google to Require Government License from Personal Loan Apps in Kenya, Nigeria Starting in February 2023' (*BitcoinKE* 29 November 2022) <<https://bitcoinke.io/2022/11/google-requirements-from-personal-loan-apps/>> accessed 11 April 2023.

¹⁰⁹ Annie Njanja, 'Google Removes Hundreds of Kenya-Focused Loan Apps from Play Store' (*TechCrunch* 24 March 2023) <<https://techcrunch.com/2023/03/24/google-removes-hundreds-of-kenya-focused-loan-apps-from-play-store/?guccounter=1>> accessed 11 April 2023.

¹¹⁰ 'Google to Prohibit Personal Loan Apps from Accessing User Photos, Contacts' (BusinessGhana) <<https://www.businessghana.com/>> accessed 10 July 2023

¹¹¹ Mitchell Clark, 'Google Is Trying to Make Sure Apps Let You Delete Your Account' (*The Verge*, 5 April 2023) <<https://www.theverge.com/2023/4/5/23670486/google-play-store-apps-account-data-deletion-requirement>> accessed 11 April 2023

¹¹² 'FG Bars Online Banks from Accessing Customers' Photos, Contacts' (*Punch Newspapers*, 10 April 2023) <<https://punchng.com/fg-bars-online-banks-from-accessing-customers-photos-contacts/>> accessed 11 April 2023

¹¹³ Federal Competition and Consumer Protection Act, 2018, Sections 115 114.

goods and services should be displayed along with the specific product description.¹¹⁴ The inadequate application of transparency laws may be to blame for the rising use of deceptive design.¹¹⁵ Deceptive designs obscure information, making it difficult for users to make informed decisions.¹¹⁶ For example, Spark Credit adopts such deceptive designs by disclosing interest rates and charges after the user has signed up.¹¹⁷ Also, the inability to access a privacy notice that documents evidence of processing activities obscures information that aids decision-making.¹¹⁸

Deceptive cues such as colour schemes, tricky questions, and using social proof to influence a consumer's decision can limit consumer choice and exploit cognitive bias. Furthermore, Section 123 of the FCCPA prohibits using misleading and deceptive tactics. In addition, Section 115 of the FCCPA requires the display of the price of goods or services, making the use of hidden costs illegal. Although transparency is not explicitly mentioned as a principle under the NDPR, Article 2.5 makes it an obligation to provide a privacy notice informing consumers genuinely about processing activities before commencement. In addition, Article 3.1(1) specifies that the information must be in “concise, transparent, intelligible, and easily accessible form, using clear and plain language.” A similar provision is found under the FCCPA.¹¹⁹ In addition, the Guidelines on Responsible Business Conduct mandate mobile operators to present information about a product or service to the consumer and disclose any applicable charges.¹²⁰ This provision aims to prevent using hidden or unclear information that confuses the consumer.

3.2.3 Misrepresentation of information

False communication about a service or product by whatever means that induces a decision from a consumer can be termed misleading. Section 125 of the FCCPA makes making false, misleading, or deceptive claims illegal.¹²¹ The provisions address the use of misleading information, social proof, and tricky questions, which centre around misrepresenting products and services to consumers in whatever form prevents them from making informed decisions. Deceptive design involves the false representation of material facts, which influences the consumer's decision in a way that benefits the seller or the website owner.¹²²

Section 125 of the FCCPA states that, while advertising or marketing, if a product makes a false, misleading, or deceptive representation of a fact to a consumer or prospective consumer

¹¹⁴ Federal Competition and Consumer Protection Act, 2018, Sections 115 and 116.

¹¹⁵ Michael Chromik and others, ‘Dark Patterns of Explainability, Transparency, and User Control for Intelligent Systems’ <<https://ceur-ws.org/Vol-2327/IUI19WS-ExSS2019-7.pdf>>. accessed 11 April 2023.

¹¹⁶ Richard Yang (@richard.ux), ‘Ethical Alternatives to Revenue-Generating Deceptive Patterns’ (*Medium*, 9 March 2023) <<https://uxdesign.cc/ethical-alternatives-to-revenue-generating-deceptive-patterns-252a0efd9d2d>> accessed 10 July 2023.

¹¹⁷ Paragraph 2.4.1 of Chapter 2

¹¹⁸ See also Chapter 2, Table 1.

¹¹⁹ Federal Competition and Consumer Protection Act, 2018, Sections 114

¹²⁰ Article 4.3.

¹²¹ Federal Competition and Consumer Protection Act, 2018, Section 125

¹²² Adegoroye, Adaramola and Muriuku (n 44)

or fails to correct an apparent misapprehension or confusion in the consumer's mind, the undertaking will be liable to anyone who has suffered because of such misrepresentation, or it will be ordered to pay monetary damages. This section outright prohibits any deceptive product or service representation to the consumer. As the primary regulation on consumer protection in Nigeria, this provision should be interpreted to address the issues of deceptive representations, including deceptive designs on apps, that unduly influence the choice and decision of a consumer.

Misrepresentations include fake profiles, testimonials, or unverifiable endorsements for their products, which can induce consumers to buy impulsively based on inadequate or false information. This practice violates Section 126 of the FCCPA, which prohibits using testimonials for product promotion unless the past user has already published the testimonial and the vendor has requested and obtained permission to publish.¹²³ Implementing this provision will deter digital lending apps like Nownowmoney and Diamond Credit that use pop-ups to display unverifiable testimonials from users claiming to have obtained loans through their mobile applications.¹²⁴ This violates the FCCPA and the Guidelines on Responsible Business Conduct, which prohibit misleading, deceptive, and unethical conduct.

Regulation 4.2.1 of the Central Bank of Nigeria Consumer Protection Regulation also clarifies the content of advertisements, so consumers are not misled. The advertisement must not exaggerate the benefits of a product or service. In addition, every information relating to the product, such as its cost, charge, or fees,¹²⁵ should be included to enable the consumer to make an informed decision based on the information available and not discover hidden details after the product or service has been acquired. This provision directly prohibits the use of hidden costs and misleading information in any transaction, as this can cause harm to the consumer.

3.2.4 Lack of fairness

The right to fair dealing is one of a consumer's fundamental rights.¹²⁶ This is instructive because of the asymmetrical power imbalance between the consumer and the digital lender. Section 124 of the FCCPA prohibits using force, coercion, undue influence or pressure, harassment, and unfair tactics against a person in marketing or any business transaction. As is the case with digital lending applications like EaseMoni that use forced acceptance and persistent pop-ups to induce acceptance, this practice is contrary to the fair dealing principle laid out in the law. Additionally, the law provides that a business shall not knowingly take advantage of the physical or mental condition of the buyer, particularly buyers who are not literate and do not understand the terms or language of an agreement.¹²⁷ The section intends to protect the vulnerable from unscrupulous digital lenders who obscure information by bundling the privacy notice and terms and conditions or who make it difficult to re-access the documents.

¹²³ Federal Competition and Consumer Protection Act, 2018, Sections 126

¹²⁴ Figure 6 and 9, Chapter 2

¹²⁵ CBN Consumer Protection Regulation 2019, Regulation 4.2.4

¹²⁶ Federal Competition and Consumer Protection Act, 2018, Sections 124.

¹²⁷ Federal Competition and Consumer Protection Act, 2018, Sections 124 (2).

The Central Bank of Nigeria Consumer Protection Regulations, make it mandatory for digital lenders to clarify consumer information,¹²⁸ such as contracts, privacy documents, and terms of use. This aims to ensure a mutual understanding of the contract terms and that the service provider does not take all the advantages to the consumer's detriment. The Regulations also aim to prevent misleading or deceptive practices¹²⁹ and encourage disclosure of terms of credit, such as the cost of loan charges,¹³⁰ a notice of variation of charges,¹³¹ and the option for consumers to opt out of marketing emails.¹³²

3.3. Consequences of non-compliance

The relevant legal framework for deceptive designs in Nigeria provides consequences for contravention of the provisions of the laws. The regulators for financial institutions prohibit unlicensed digital lenders from operating in Nigeria. However, this is hardly complied with in practice. Under the CBN Consumer Protection Guidelines on Responsible Business Conduct, Article 10 stipulates that non-compliance with the Guidelines is punishable under the CBN Act, the BOFIA, and other relevant laws and regulations. Penalties under the CBN Consumer Protection Regulations depend on the nature of the breach. The regulation provides for penalties of up to N2,000,000.¹³³ Sections 146 and 148 of the FCCPA specify that either the consumer or the commission is responsible for upholding the law. According to Section 155, anyone who anyone who breaches a consumer's rights commits a crime punishable by imprisonment for a term not exceeding five years or by payment of a fine not exceeding N10,000,000 or 10% of turnover, or, if it is a corporate body, a fine of N100,000,000 or 10% of the business's annual turnover. Section 21 of the Credit Reporting Act provides for fines of up to N10,000,000 and prison terms of up to ten years. The Nigeria Data Protection Regulation provides that a violation of the regulations is considered a breach of the NITDA Act, punishable by fines.¹³⁴ Thus, using different deceptive designs, as seen in Chapter 2, Table 1, violates the laws and could potentially attract sanctions from the regulatory authorities.

Despite the highlighted laws above and the penalties, there is hardly any enforcement of these laws against the use of deceptive design. One persistent obstacle to deceptive design regulation is the lax enforcement of existing laws, which leaves room for manipulative practices to thrive. It highlights the urgent need for strict law enforcement in this domain. An appropriate regulatory framework must be accompanied by adequate oversight and enforcement.

3.4 Conclusion

This chapter highlights key provisions of the current legal framework that address deceptive designs in Nigeria. Nigeria's inadequate enforcement mechanism has diminished the laws'

¹²⁸ CBN Consumer Protection Regulation, Paragraph 4.1.1 (a).

¹²⁹ Ibid, 4.1.1(e).

¹³⁰ Ibid, 4.2.4.

¹³¹ Ibid, 4.4.6.

¹³² Ibid, 5.3.6.

¹³³ Paragraph 7

¹³⁴ Article 4.2.6, National Information Technology Development Agency Act 2007 (NITDA Act) section 17.

effectiveness in addressing the identified problems. The analysis demonstrates that the existing legal framework can be leveraged to compel compliance from digital lending platforms. Thus, it is recommended that regulators move beyond issuing fines to more court actions for non-compliance. This will serve as a deterrent to digital lenders involved in deceptive practices. In the past, the FCCPC had filed lawsuits against violators of the FCCPA for varying reasons.¹³⁵ For example, it sued six companies for obstructing its investigations.¹³⁶ A similar attitude would help enforce provisions against deceptive designs.

Chapter 4: Addressing Deceptive Design in Nigerian Digital Lending: Comparing the European Union Consumer Credit Directive to the Nigerian Context

4.1. Introduction

This chapter addresses the third and final research sub-question:

How does the protection standard under Nigerian law compare against the consumer protection safeguards provided by the European Union's Consumer Credit Directive (CCD), and how can Nigeria's legal framework better combat deceptive design in digital lending products?

The chapter briefly highlights similarities, discusses differences, and identifies areas where Nigeria can learn from the CCD to combat deceptive design in its digital lending ecosystem. The chapter provides insights into the Directive and its proposed amendment provisions on consumer protection standards and enforcement actions. It compares them with Nigeria's fragmented legislation and practices on deceptive designs. The comparison takes a functional comparative law approach, focusing on the text and real-life application of the law. Finally, based on the analysis of the legal framework in Nigeria and the EU, the chapter recommends solutions for combating deceptive designs in Nigeria. The discussion in this chapter is limited to the relevant provisions that correspond to the problems identified in Chapter 2, as it is not within the Scope of the thesis to analyse the entire Directive.

4.2. Similarities between the EU and Nigeria's Legal Framework for Deceptive Designs

There are some similarities between the EU and Nigeria's legal framework for consumer protection. This forms the basis for comparison in this chapter. As opposed to the EU, Nigeria's

¹³⁵ 'Re: FRN vs Dr. Anuoluwapo Funmilayo Adepoju and Med Contour Services Limited; Court Rejects No Case Submission Application, Affirms There Is a Case to Answer, Sets May 26th, 2022 to Commence Trial' (*Federal Competition & Consumer Protection Commission*, 8 April 2022) <<https://fccpc.gov.ng/re-frn-vs-dr-anuoluwapo-funmilayo-adepoju-and-med-contour-services-limited-court-rejects-no-case-submission-application-affirms-there-is-a-case-to-answer-sets-may-26th-2022-to-commence-trial-2/>> accessed 12 April 2023

¹³⁶ Godwin Anyebe, 'FCCPC Sues Hull Blyth Company, Its CEO and 6 Executives' (*Consumers Assembly*, 19 January 2022) <<https://consumersassembly.com/2022/01/19/fccpc-sues-hull-blyth-company-its-ceo-and-6-executives/>> accessed 29 May 2023.

legal framework for consumer credit is less specific and more general. However, both jurisdictions have detailed provisions for averting deceptive practices.

The CCD mandates that credit providers be transparent in their dealings with consumers. The Directive encourages the disclosure of information to consumers to aid their decision-making process. It states that such information must be clearly, concisely, and prominently provided, employing a representative example.¹³⁷ In Nigeria, the CBN Consumer Protection Guidelines on Responsible Business Conduct and the CBN Consumer Protection Regulations similarly provide for transparent lending practices. They stress the need to promote good business practices, such as providing clear information about products and services, features, terms and conditions, and applicable charges.¹³⁸ The CBN Consumer Protection Regulation further provides that financial institutions shall comply with the rates, fees, charges, or prices published or displayed at the engagement points.¹³⁹ Also, the CBN Regulation mandates full disclosure of the terms and conditions of a product, rates, and possible variations on rates and charges before accepting an offer of credit.¹⁴⁰ Also, the CCD provides that consumers must be given enough information about the loan they are taking out, such as the interest rates, both at the beginning and end of the agreement.¹⁴¹

Both jurisdictions also stress the concept of responsible lending in their respective laws. For example, irresponsible lending practices such as the imposition of high-interest rates, predatory lending, a lack of transparency, overreliance on collateral, harassment, and intimidation are prohibited. Responsible lending emphasises that before finalising a credit agreement, a lender should not only assess its chances of recovering its debt if the consumer borrower defaults on the loan. Lenders should also consider whether the borrower can repay the loan without experiencing undue financial distress.¹⁴² Thus, Article 8 of the CCD mandates the Member States to ensure that the creditor assesses the borrower's creditworthiness before advancing a loan. Furthermore, the Consumer Protection Guidelines on Responsible Business Conduct seek to protect consumers from "unethical and predatory practices that undermine consumer confidence in financial services."¹⁴³ The Guideline is binding on digital lenders licensed by the CBN. It obligates lenders to obtain consumers' credit histories under the Credit Reporting Act 2017 provisions to "ascertain consumers' outstanding debt obligations and repayment histories before advancing credits."¹⁴⁴ This assessment aims to ensure that a consumer is not given a loan beyond their means, potentially affecting their ability to repay it.

¹³⁷ European Union Consumer Credit Directive 2008, Article 5.

¹³⁸ CBN Consumer Protection Guidelines on Responsible Business Conduct, paragraph 4(3), and CBN Consumer Protection Regulations, Article 4.1.1.

¹³⁹ CBN Consumer Protection Regulations, Article 4.1.9.

¹⁴⁰ CBN Consumer Protection Regulations, Article 4.3.

¹⁴¹ Paragraph 32 of the Preamble to the European Union Consumer Credit Directive 2008.

¹⁴² Cherednychenko OO, 'The Proposal for a New EU Consumer Credit Directive: Towards Responsible Lending in the Digital Age?' (2022) 0 Law and Financial Markets Review 1 12
<<https://doi.org/10.1080/17521440.2022.2153611>> accessed 18 April 2023.

¹⁴³ CBN Consumer Protection Guidelines on Responsible Business Conduct, paragraph 2

¹⁴⁴ CBN Consumer Protection Guidelines on Responsible Business Conduct 2019, paragraph 6(6).

Finally, there is currently a proposed amendment to the CCD that is also instructive. The suggested amendments to the CCD include prohibitions on pre-selected options and unsanctioned credit sales. The proposed amendments would preclude lenders from assuming a consumer's agreement to buy auxiliary services using default choices such as pre-selected checkboxes.¹⁴⁵ It aims to promote more responsible and transparent practices by all players involved in consumer credit.

4.3. Gaps in Nigeria's Digital Lending Legal System

The analysis of the legal and enforcement frameworks in Nigeria and the EU discloses gaps in the following areas:

4.3.1. Information to be included in advertisements

The CCD Directive is heralded for its comprehensive provisions, making the likelihood of confusion minimal. Concerning advertisements relating to credit agreements, the CCD provides that the agreement should contain detailed information about the borrowing rates, fixed or variable, and particulars of the charges, the total amount of credit, the annual percentage rate of charges, the duration of a credit agreement if any, and where applicable, the total amount payable and instalments to be paid.¹⁴⁶ Under Nigerian law, advertisements focus more on transparency and fairness in presenting information than on the specific information that should be included in the advertisement about the credit or loan itself. Thus, in addition to the provision on the clarity of information on advertised products and services, to avoid misleading the consumer.¹⁴⁷ In addition, the CJEU has decided that any advertisement that contains false information or facts is considered misleading and an unfair commercial practice.¹⁴⁸ For clarity of information generally, The Italian Data Protection Authority sanctioned a company for using deceptive design on its website and mobile application.¹⁴⁹ In Germany, the Federal Financial Service Authority issued guidance on deceptive designs applicable to investment firms.¹⁵⁰ Similarly, the European Data Protection Board has taken a

¹⁴⁵ Cherednychenko OO (n 142) 8.

¹⁴⁶ EU Consumer Credit Directive, Article 4.

¹⁴⁷ FCCPA, Section 125 and CBN Consumer Protection Regulations, Article 4.2.

¹⁴⁸ Trento Sviluppo v Autorità Garante della Concorrenza e del Mercato (Case C-281/12) ECLI:EU:C:2013:859 <<https://curia.europa.eu/juris/document/document.jsf?jsessionid=35F2EC0A0B05B1DD475C91276FCD287F?text=&docid=145910&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=502866>> accessed 1 July 2023.

¹⁴⁹ 'Provvedimento prescrittivo e sanzionatorio nei confronti di Ediscom S.p.A. - 23 febbraio 2023 [9870014]' <<https://www.garanteprivacy.it:443/home/docweb/-/docweb-display/docweb/9870014>> accessed 7 July 2023. 'Ediscom Case: The Garante Sanctioned The Use Of Dark Patterns For The First Time - Privacy Protection - Italy' <<https://www.mondaq.com/italy/privacy-protection/1317668/ediscom-case-the-garante-sanctioned-the-use-of-dark-patterns-for-the-first-time>> accessed 1 July 2023.

¹⁵⁰ 'BaFin: Dark Patterns in Trading Apps unzulässig' (BaFin) <https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Meldung/2022/meldung_2022_11_21_Dark_Patterns_in_TradingApps_Experten.html> accessed 10 July 2023. 'German Authority and EU Bodies Target "Dark Patterns" in Trading Apps and Online Interfaces | Perspectives & Events' <<https://www.mayerbrown.com/en/perspectives-events/publications/2023/01/german-authority-and-eu-bodies-target-dark-patterns-in-trading-apps-and-online-interfaces>> accessed 1 July 2023.

definitive step by publishing guidelines against deceptive design.¹⁵¹ The regulatory and policy effort in the EU shows a wide disparity compared to Nigeria.

4.3.2. Pre-contractual information and disclosures

While Nigerian law prohibits arbitrary and inequitable contract terms between financial institutions and consumers,¹⁵² the EU Directive emphasises the importance of providing consumers with clear and comprehensive information before entering into a loan agreement. This information should be enough for the consumer to evaluate various offers and make “an informed decision on whether or not” to proceed.¹⁵³ The Directive further provides a template specifying the necessary credit information. The Directive requires lenders to provide customers with standardised pre-contractual information through the Standard European Consumer Credit Information Sheet (SECCIS). The complex nature of the credit information further informs the consumer about the nature of the agreement and whether to continue or not. It leaves no room for obscurity or confusion and reduces the chances of using deceptive design. A similar provision is visibly missing from the Nigerian laws. Although the proposed directive amendments have made the agreements less wordy, the primary credit information remains.

The enforcement trend concerning information provision in the EU is also worth emulating. In 2016, the European Court of Justice (ECJ) had to interpret the provisions of the CCD in *Home Credit Slovakia a.s. (HSC) v. Klára Bíróová*¹⁵⁴ on whether a lender could incur a penalty for failing to include all the information required by the Directive to be contained in a credit agreement. The ECJ decided that such an omission could result in a penalty, depending on the nature of the information omitted. Also, in 2020, in *Mikrokasa SA v. XO*, the ECJ had to interpret the scope of the CCD on unfair terms in consumer contracts.¹⁵⁵ According to the ECJ, contracts must be interpreted as a term that sets interest rates according to the provisions of national legislation without necessarily considering the actual costs incurred, which do not fall outside the Scope of the Directive. In Nigeria, the only legal action brought under the FCCPA was about obstruction of the investigation by the Commission, not an interpretation of its substantive provisions.¹⁵⁶

4.3.3. Assessing the creditworthiness of the consumer

The Nigerian legal framework calls for evaluating a consumer's creditworthiness before sanctioning a loan and exceeds the EU Directive by mandating financial institutions to investigate the consumer's credit history. Conversely, the EU Directive caters to scenarios

¹⁵¹ European Data Protection Board, 'Guidelines 03/2022 on Deceptive Design Patterns in Social Media Platform Interfaces: How to Recognise and Avoid Them' (2023) https://edpb.europa.eu/system/files/2023-02/edpb_03-2022_guidelines_on_deceptive_design_patterns_in_social_media_platform_interfaces_v2_en_0.pdf accessed 1 July 2023

¹⁵² FCCPA, Section 127 and CBN Consumer Protection Regulations, Article 3.3.

¹⁵³ EU Consumer Credit Directive, Article 5.

¹⁵⁴ Case C-42/15 ECLI: EU: C: 2016:842; paras 51 ff.

¹⁵⁵ Case C-779/18 Mikrokasa SA v XO, ECLI:EU:C:2020:236

¹⁵⁶ Chapter 3.

where a consumer alters the total credit amount post-finalisation of a credit agreement. In such cases, the creditor must examine the consumer's financial information and creditworthiness before authorising a significant increase in the overall credit amount.¹⁵⁷ The Nigerian legal system provides no other assessment when additional credit is taken. This may prevent individuals from taking additional credit when they cannot pay it, thus reducing defaults and over-indebtedness.

4.3.4 Right of Withdrawal

The right of withdrawal is not provided under the Nigerian framework. This is the right of the consumer to withdraw from a credit agreement without giving any reason. However, the consumer must pay the capital and interest at the agreed borrowing rate within 30 days of withdrawal.¹⁵⁸ This stresses the need for the consumer to have equal rights with the borrower, such that there is the option to withdraw at any time and subsequent repayment of the loan amount and interest at the agreed borrowing rate. There is no room for an arbitrary increase in interest or the imposition of high-interest rates in this situation because the interest is based on the agreed-upon borrowing rate.¹⁵⁹

4.4. Recommendations

4.4.1 Effective enforcement mechanism

The issue of deceptive designs in Nigeria has persisted due to the poor enforcement mechanism, as discussed in *paragraph 4.5.1*. Unlike the EU, where there have been decisions from the regulators, the courts, and even strategic push by civil society organisations. For example, in 2021, the BEUC reported several aggressive and misleading commercial practices by WhatsApp.¹⁶⁰ A similar complaint was made against Google to the national data protection authority for tricking Android users into sharing their location data through deceptive designs, misleading information, repetitive prodding, concealed default settings, bundling of services, and a lack of granular choices.¹⁶¹

This thesis recommends that regulators like the FCCPC and the CBN should become more proactive in leveraging their existing powers, building capacity to address new areas, and tackling these problems. In addition, cooperation between the FCCPC and the data protection regulator, the NDPB, should be deepened for efficiency, address emerging threats like deceptive design, coordinate joint enforcement investigations, and conduct industry-focused

¹⁵⁷ EU Consumer Credit Directive, Article 8.

¹⁵⁸ EU Consumer Credit Directive, Article 14.

¹⁵⁹ EU Consumer Credit Directive, Article 11.

¹⁶⁰ 'What's up with WhatsApp? | BEUC' (6 March 2023) <<https://www.beuc.eu/whats-whatsapp>> accessed 21 May 2023.

¹⁶¹ 'Consumer Groups across Europe File Complaints against Google for Breach of GDPR' <<https://www.beuc.eu/press-releases/consumer-groups-across-europe-file-complaints-against-google-breach-gdpr>> accessed 10 July 2023.

research. For example, the noticeable hiding of information on NowNowMoney, Diamond Credit, Kashcash, and Spark Credit raises a data protection issue concerning non-compliance with the right to be informed and transparency principles; at the same time, it raises consumer protection issues concerning the right to information and fair dealing. Interestingly, the FCCPC and the NDPB signed an MOU in 2022 to enhance the protection of consumer rights, including data protection.¹⁶² Albeit, the outcome of this collaboration is yet to be seen.

Also, the regulators leverage their existing authority and mandate to compel compliance by digital lenders who contravene the provisions of the law. Although the FCCPC, NITDA, ICPC, and police collaborated in 2021 to raid some illegal lending platforms, including Easi Moni and Kashcash, which were examined in this work, the outcome of that raid is still not impactful, considering that the apps are still operational. Beyond the signing of the MoU, the collaboration should translate to meaningful results by exploring a clearinghouse model where the regulators can resolve complaints with data protection, competition, and consumer protection implications. A clearinghouse will promote cooperation, open dialogue, the sharing of knowledge, and practical strategies among policymakers, academics, and other stakeholders, leading to a more effective and unified enforcement strategy.¹⁶³ For example, Spain, France, and the Netherlands have a similar mechanism that engenders collaboration among these authorities.¹⁶⁴

4.4.2 Leveraging existing laws

The thesis does not propose enacting a new law, as it may not solve the problem in the medium or long term. Additionally, given the harms already brought on by deceptive design, discussed in Chapter 2, creating a new law with Nigeria's lengthy legislative process may not be the best choice. Thus, leveraging existing laws identified in Chapter 3 is sufficient to address the identified issues in Chapter 2. As argued by legal scholars in the past, creating a specific, comprehensive law on a subject may not always be the best way to achieve compliance. However, a limited set of general rules may achieve this better.¹⁶⁵ In addition, according to Leenes, a law does not need to mention an issue for it to apply to it specifically.¹⁶⁶ Applying this to the Nigerian context, the legal framework discussed in Chapter 3 does not explicitly address the deceptive designs identified in Chapter 2. However, the laws provide for consumer protection and the principles that prevent the use of deceptive designs. Consequently, it is logical to conclude that the effectiveness of these laws in addressing deceptive designs in digital

¹⁶² 'NDPB, FCCPC Sign MoU on Data Protection, Consumer Right - Brand Times' (2 November 2022) <<https://www.brandtimes.com.ng/ndpb-fccpc-sign-mou-on-data-protection-consumer-right/>> accessed 27 May 2023.

¹⁶³ 'Digital Clearinghouse' (*Digital Clearinghouse*) <<https://www.digitalclearinghouse.org/>> accessed 29 May 2023.

¹⁶⁴ 'The Ever-Closer Cooperation between Competition, Data Protection and Other Regulatory Authorities in the UK and EU: What It Means for Businesses' <<https://www.twobirds.com/en/insights/2022/global/the-ever-closer-cooperation-between-competition-data-protection>> accessed 29 May 2023.

¹⁶⁵ Ronald Leenes, 'Regulating New Technologies in Times of Change' in Leonie Reins (ed), *Regulating New Technologies in Uncertain Times* (TMC Asser Press 2019) <https://doi.org/10.1007/978-94-6265-279-8_1> accessed 21 May 2023.

¹⁶⁶ Ibid.

lending products depends on their interpretation by the courts and regulators. Thus, the thesis recommends that regulators expound on existing legislation to address deceptive designs.

In addition, the FCCPC may consider issuing specific guidelines or regulations on deceptive design under its existing powers to regulate inappropriate product designs. The guidelines should include a prescription on product design to expressly eliminate deceptive design practices that may mislead consumers into taking an unaffordable or unsuitable loan. It should include product governance, oversight, and auditing regulations, and it should require digital lenders to assess their products with consumers before releasing them to the market, monitor products once released, and take prompt corrective action to protect consumers.

4.4.3 Modifying existing laws to increase safeguards

Following the gaps identified in the Nigerian Framework, the thesis recommends that the Nigerian authorities consider modifying existing regulations to increase safeguards. The requirement for lenders to provide more information about accurate interest rates, fees, repayment schedules, and any other costs associated with the loan should be clearly stated. This could potentially reduce deceptive tactics that obscure essential information or mislead users about the actual costs of borrowing. Adopting standard documentation like the SECCI sheet would improve transparency requirements by requiring digital lending apps to present the sheet in a clear, accessible, and user-friendly manner, reducing the likelihood of deceptive design being used to confuse or manipulate users. Adopting a similar document like the SECCI sheet means digital lenders will be compelled to provide consumers with more information, which may aid autonomy in decision-making and help them avoid endless debt cycles due to insufficient information about the computation of interest rates. Furthermore, the right to backout out of a credit agreement within a reasonable timeframe without having to provide a reason or pay any arbitrary fees should be considered, making it more difficult for digital lending apps to use deceptive design to discourage users from exercising their right to withdraw from a loan agreement through the complex interface that locks them in.

Finally, advertising rules should be strengthened to prevent misleading and false information and ensure that digital lending apps do not use deceptive designs to create deceptive advertisements or promotions based on social proof or outright falsehood. Additionally, such an amendment could include an explicit prohibition on using deceptive designs that manipulate or deceive users into entering credit agreements that are not in their best interests.

4.5. Conclusion

The chapter reveals that the existing provisions can address the issues of deceptive designs in Nigeria without enacting a new law, which takes a long time. Based on this premise, the chapter recommends adopting approaches to strengthen the existing legal framework and regulatory actions to combat deceptive designs in Nigeria. Finally, the successful implementation of the recommendations could promote informed decision-making, increased trust, decreased financial risk, and overall fairness in the digital lending market by addressing predatory lending

practices and enhancing transparency and consumer protection. This creates a safer and more beneficial environment for consumers of digital lending services.

Chapter 5: Conclusion

5.1. The Gap in Literature

Existing literature on deceptive design in Nigeria's digital lending ecosystem has focused on the need for new laws to combat this growing problem. The extent to which the existing legal framework can be applied to address the problem of deceptive design in digital lending applications has yet to be deeply investigated. These laws and frameworks contain provisions that can be adapted to deal with the deceptive design practices of digital lending. However, comprehensive research is needed to interpret and implement them effectively to counteract this problem.

Additionally, more comparative studies that capitalise on insights from other countries' successes and failures in dealing with deceptive design are needed. Such a comparative legal analysis may be pivotal in identifying potential ways to apply Nigeria's existing legal framework to its digital lending system and thus help fill this gap in the literature. Conclusively, the excessive focus on introducing new regulations to curb deceptive design in the digital lending ecosystem in Nigeria needs to pay more attention to the potential effectiveness of existing laws and comparative analysis. Recognising and filling gaps in the available academic research is critical for developing a thorough and nuanced understanding of how to cope with deceptive design in the digital lending ecosystem. Filling this void will undoubtedly broaden our understanding.

5.2. Answer to Research Question

The thesis has sought to answer the following main research question, *"Do the Nigerian legal framework and its regulators have sufficient means to address deceptive digital lending practices?"*

The thesis compared the legal framework for deceptive designs in Nigeria and the EU's Consumer Credit Directive. Based on this analysis and the similarity of the provisions, the research demonstrates that the legal framework is sufficient and that regulators can enforce the laws by leveraging their existing authority under the various laws. The thesis reviewed the Federal Competition and Consumer Protection Act 2018, the Nigeria Data Protection Regulation 2019, the Credit Reporting Act 2017, the Central Bank of Nigeria Consumer Protection Regulations 2019, the Central Bank of Nigeria Consumer Protection Guidelines on Responsible Business Conduct 2019 and the FCCPC Guidelines on Digital Lending 2021, all of which provide for consumer rights in transactions. These laws stress the need to protect consumers from unfair, deceptive, misleading, and fraudulent practices. Thus, although there is no mention of deceptive designs, the laws intend to eradicate different forms of deceptive practice in digital lending transactions by their definition. The Federal Competition and Consumer Protection Commission (FCCPC) is Nigeria's primary body responsible for consumer protection and has the authority to regulate both online and offline transactions involving consumers. Based on these provisions, this thesis recommends that the FCCPC become more initiative-taking in enforcing the law and implement the provisions of previous collaborations with relevant authorities like the NDPB to ensure that transactions are done

according to the provisions of the law. In addition, it recommends that existing laws be modified to increase safeguards.

5.3. Importance of Findings and Implications

The findings identified in this thesis are significant for many reasons. First, the thesis deviated from the conventional recommendation across multiple literatures that the legislature should enact a new law to address problems caused by emerging technologies. Thus, the thesis recognises the difficulty and non-practicability of enacting a new law to address every new problem and recommends a more practical approach: enforcing existing general laws on consumer protection. By reviewing the laws and comparing them with the EU CCD, the thesis exposed salient provisions that could address the issues. The findings from the analysis of the deceptive designs adopted in the digital lending products identified in this thesis are essential in drawing attention to the schemes adopted by fraudulent lenders and how to identify and avoid them. Secondly, the findings help inform digital money lenders of the provisions of the law and the legal consequences of their practices, which contradict the laws. Thirdly, it will also aid the regulators in the further assessment of these applications in the hope of suspending or turning off the operations of unscrupulous digital lenders in the ecosystem. Finally, these findings imply that Nigeria is not without a legal framework for deceptive designs and that the laws are adequate in addressing the identified problems.

5.4. Limitations

While it analyses digital lending products to ascertain the extent of deceptive designs adopted, it does not empirically ascertain the impact of deceptive designs on borrowers. In addition, the analysis of the EU CCD is limited to the provisions that relate directly to the deceptive designs identified in Chapter 2 and how these provisions help address the issues highlighted in this work. It also focuses on the deceptive designs identified by selected digital money lenders, so the constant reference is made to those specific products. Finally, the thesis limited its analysis to these products and areas such as e-commerce, payment processing, banking, insurance, and digital marketing outside this research's scope.

5.5. Further Research

The thesis has raised questions about the deceptive practices adopted on other platforms besides the digital lending platforms analysed in this thesis, thereby opening the room for further research and discussions on these revelations. For example, consumer choices could be influenced by other deceptive designs besides misrepresentation, as argued in this thesis. Furthermore, research could be done on other sectors not explicitly addressed in this thesis to uncover the deceptive practice adopted in those sectors and recommend ways of addressing the issues.

Bibliography

Legislation

- Federal Competition and Consumer Protection Commission Act 2018 (FCCPA)
- Nigeria Data Protection Regulation 2019 (NDPR)
- Credit Reporting Act 2017
- Central Bank of Nigeria Consumer Protection Regulation 2019
- FCCPC Guidelines on Digital Lending
- CBN Consumer Protection Guidelines on Responsible Business Conduct 2019
- European Union Consumer Credit Directive 2008
- Banks and Other Financial Institutions Act 2021 (BOFIA)

Jurisprudence

- *Olumide Babalola v Soko Lending Company Limited* [LD/13031MFHR/2022]
- *Home Credit Slovakia a.s. (HSC) v. Klára Bíróová* [Case C-42/15 ECLI: EU: C:2016:842]
- *Mikrokasa SA v. XO* [Case C-779/18 ECLI:EU:C: 2020:236]
- *Trento Sviluppo srl and Centrale Adriatica Soc. coop. arl v. Autorità Garante della Concorrenza e del Mercato* [Case C-281/12,ECLI:EU:C:2013:859]

Doctrine

- Ike-Ojo, O.P., (ed) ‘Sources of Consumer Credit Regulation in Nigeria’ (2022) *Nigerian Consumer Credit: Law, Regulation and Market Insights*.

Online Sources

- Abba A, ‘How Fintech Loan Sharks in Nigeria Cyberbully, Trap Customer in Debt | the ICIR’ (*The ICIR*, 27 <https://www.wolterskluwer.com/en/expert-insights/using-digital-lending-helps-to-reach-small-businesses>October 2021) <<https://www.icirnigeria.org/how-fintech-loan-sharks-in-nigeria-cyberbully-trap-customers-in-debt/>> accessed 12 October 2022.
- Abba A, ‘CBN, EFCC, FCCPC, Others to Prosecute “Loan Sharks” over Data Privacy Abuse’ (*The ICIR- Latest News, Politics, Governance, Elections, Investigation, Factcheck, Covid-19*, 15 November 2021) <<https://www.icirnigeria.org/cbn-efcc-fccpc-others-to-prosecute-loan-sharks-over-data-privacy-abuse/>> accessed 19 May 2023.
- ‘Account Deletion Requirement Starts June 30 - Latest News - Apple Developer’ (*Apple.com*2022) <<https://developer.apple.com/news/?id=12m75xbj>> accessed 11 April 2023.
- Adaramola V and others, ‘Digital Lending: Inside the Pervasive Practice of LendTechs in Nigeria’ (Tech Hive Advisory, Ikigai Innovation Initiative, and Regcompass 2021),

35 <<https://techhiveadvisory.org.ng/wp-content/uploads/2021/11/lendtech.pdf>> accessed 28 September 2022.

- Adegoroye A, Banjoko O, and Oloyede R, 'The Blurry Lines between Deceptive Design and Marketing Strategy in Nigeria's Digital Space' (*Tech Hive Advisory*, 25 March 2022) <<https://techhiveadvisory.org.ng/wp-content/uploads/2022/04/Dark-Pattern-Research-2.pdf>> accessed 28 September 2022.
- Adegoroye A, Adaramola V and Muriuku J, 'The State of Deceptive Design in Africa: Case Studies from Nigeria and Kenya' (*Tech Hive Advisory* 2022) Policy brief <<https://techhiveadvisory.org.ng/wp-content/uploads/2022/10/Deceptive-Design-Report.NG-KY.pdf>> accessed 12 October 2022.
- Adelagun O, 'Nigeria's Consumer Protection Agency Cracks Down on Digital Loan Firms' (*Premium Times Nigeria* 11 March 2022). <<https://www.premiumtimesng.com/news/headlines/516749-nigerias-consumer-protection-agency-cracks-down-on-digital-loan-firms.html>> accessed 11 April 2023.
- Adeyemi D, 'Unchecked Ambition, Lax Regulations: The Genesis of Predatory Digital Lenders in Nigeria' (*TechCabal* 11 January 2022) <<https://techcabal.com/2022/01/11/predatory-digital-lenders-in-nigeria/>> accessed 19 December 2022.
- Atkinson W, 'Using Digital Lending Helps to Reach Small Businesses' (*Wolterskluwer.com*, November 2022) <> accessed 26 February 2023.
- Akinwotu E, "'Their Weapon Is Your Shame": Toxic Abuse from Nigeria's Loan Sharks' (*the Guardian* 9 March 2022) <<https://www.theguardian.com/world/2022/mar/09/their-weapon-is-your-shame-toxic-abuse-from-nigerias-loan-sharks>> accessed 9 April 2023.
- Allen N, 'The Promises and Perils of Africa's Digital Revolution' (Brookings, 11 March 2021) <<https://www.brookings.edu/techstream/the-promises-and-perils-of-africas-digital-revolution/>> accessed 8 September 2022.
- Anyebe G, 'FCCPC Sues Hull Blyth Company, Its CEO and 6 Executives' (*Consumers Assembly*, 19 January 2022) <<https://consumersassembly.com/2022/01/19/fccpc-sues-hull-blyth-company-its-ceo-and-6-executives/>> accessed 29 May 2023.
- BEUC 'What's up with WhatsApp? | BEUC' (6 March 2023) <<https://www.beuc.eu/whats-whatsapp>> accessed 21 May 2023.
- BEUC 'Air Passenger Rights – Travel Chaos | BEUC' (22 July 2020) <<https://www.beuc.eu/air-passenger-rights-travel-chaos>> accessed 21 May 2023.
- BEUC 'Every Step You Take | BEUC' (2018) <<https://www.beuc.eu/every-step-you-take>> accessed 21 May 2023.
- Bhardwaj P, 'What Are the Dangers of Third-Party App Stores?' (*MUO* 2023) <<https://www.makeuseof.com/what-are-the-dangers-of-third-party-app-stores/>> accessed 11 April 2023.
- Borgesius F Z Buijzen M and Schraffenberger H, "Dark and Bright Patterns in Cookie Consent Requests" (2021) 3 Journal of digital social research 1
- Brignull H, 'Deceptive Design - User Interfaces Crafted to Trick You' (*Deceptive.design*) <<https://www.deceptive.design/>> accessed 11 October 2022.

- Brown M ‘German Authority and EU Bodies Target “Dark Patterns” in Trading Apps and Online Interfaces | Perspectives & Events |’
<<https://www.mayerbrown.com/en/perspectives-events/publications/2023/01/german-authority-and-eu-bodies-target-dark-patterns-in-trading-apps-and-online-interfaces>> accessed 1 July 2023.
- Business Day <<https://businessday.ng/business-economy/article/why-nigeria-needs-robust-credit-assessment-infrastructure/>> accessed 1 March 2023.
- Cherednychenko O.O, ‘The Proposal for a New EU Consumer Credit Directive: Towards Responsible Lending in the Digital Age?’ (2022) 0 Law and Financial Markets Review 1 <<https://doi.org/10.1080/17521440.2022.2153611>> accessed 18 April 2023.
- Chromik M and others, ‘Dark Patterns of Explainability, Transparency, and User Control for Intelligent Systems’ <<https://ceur-ws.org/Vol-2327/IUI19WS-ExSS2019-7.pdf>>. accessed 11 April 2023.
- Clark M, ‘Google Is Trying to Make Sure Apps Let You Delete Your Account’ (*The Verge*, 5 April 2023) <<https://www.theverge.com/2023/4/5/23670486/google-play-store-apps-account-data-deletion-requirement>> accessed 11 April 2023.
- Colin MG and others, ‘Dark Patterns and the Legal Requirements of Consent Banners: An Interaction Criticism Perspective’ [2021] CHI Conference on Human Factors in Computing Systems (CHI ’21) <<https://www.sop.inria.fr/members/Nataliia.Bielova/papers/Gray-etal-21-CHI.pdf>> accessed 11 April 2023.
- ‘Consumer protection: manipulative online practices found on 148 out of 399 online shops screened.
- ‘Consumer Groups across Europe File Complaints against Google for Breach of GDPR’ <<https://www.beuc.eu/press-releases/consumer-groups-across-europe-file-complaints-against-google-breach-gdpr>> accessed 10 July 2023.
- ‘(European Commission - European Commission)
<<https://ec.europa.eu/commission/presscorner/home/en>> accessed 29 May 2023.
- ‘Crédit à la consommation: loyauté de l’information précontractuelle’
<<https://www.economie.gouv.fr/dgccrf/credit-a-consommation-loyaute-linformation-precontractuelle>> accessed 29 May 2023.
- “Deceptive Design - Types of Deceptive Design” (Deceptive design - Types of deceptive design) <<https://www.deceptive.design/types>> accessed September 29, 2022.
- Dark Pattern Games, “DarkPattern.Games » Healthy Gaming « Avoid Addictive Dark Patterns” (*DarkPattern.games*) <<https://www.darkpattern.games/>> accessed September 29, 2022.
- Diamond Credit, ‘Diamond Credit’ (*App Store*, 11 October 2022) <<https://apps.apple.com/ng/app/diamondcredit/id6443577508>> accessed 19 December 2022.
- Digital Clearinghouse’ (*Digital Clearinghouse*) <<https://www.digitalclearinghouse.org>> accessed 29 May 2023.
- Dosunmu D, ‘NITDA’s ₦10 Million Sanction on Soko Loan Is Expected to Be First of Many’ (*TechCabal*, 24 August 2021) <<https://techcabal.com/2021/08/24/nitda-fines-soko-loan/>> accessed 12 October 2022.

- Dosunmu D, 'Nigerian Government Shuts down 6 Illegal Digital Loan Companies' (*TechCabal*, 12 March 2022) <<https://techcabal.com/2022/03/12/nigerian-government-shuts-down-6-illegal-digital-loan-companies/>> accessed 19 May 2023.
- EaseMoni, 'EaseMoni' (*Easemoni.com*, 2022) <<https://www.easemoni.com/>> accessed 18 December 2022.
- Ekanem S, 'FG Warns Fintechs to Stop Payment Services to Loan Apps' (*Pulse Nigeria*, 19 August 2022) <<https://www.pulse.ng/business/fg-warns-fintechs-to-stop-payment-services-to-loan-apps/km40517>> accessed 12 October 2022.
- Endurance O, 'Why Nigeria Needs Robust Credit Assessment Infrastructure' (*Businessday NG*, 22 February 2022)
- Federal Competition & Consumer Protection Commission, 'Further Update: Further and Continuing Investigation of Rights Violations in Money Lending Industry; and Release of Interim Regulatory Framework - Federal Competition & Consumer Protection Commission' (*Federal Competition & Consumer Protection Commission* 26 August 2022) <<https://fccpc.gov.ng/further-update-further-and-continuing-investigation-of-rights-violations-in-money-lending-industry-and-release-of-interim-regulatory-framework/>> accessed 19 December 2022
- Federal Competition and Consumer Protection Commission, 'Re: FRN vs Dr. Anuoluwapo Funmilayo Adepoju and Med Contour Services Limited; Court Rejects No Case Submission Application, Affirms There Is a Case to Answer, Sets May 26th, 2022 to Commence Trial' (*Federal Competition & Consumer Protection Commission*, 8 April 2022) <<https://fccpc.gov.ng/re-frn-vs-dr-anuoluwapo-funmilayo-adepoju-and-med-contour-services-limited-court-rejects-no-case-submission-application-affirms-there-is-a-case-to-answer-sets-may-26th-2022-to-commence-trial-2/>> accessed 12 April 2023.
- Federal Competition and Consumer Protection Commission, 'The Status of Registration of Fintech/Digital Companies with FCCPC on the Limited Interim Regulatory/Registration Framework and Guidelines for Digital Lending 2022 - Federal Competition & Consumer Protection Commission' (*Federal Competition & Consumer Protection Commission* 8 April 2023) <<https://fccpc.gov.ng/registration-status-for-digital-money-lenders-apps/>> accessed 11 April 2023.
- Federal Competition and Consumer Protection Commission, 'FCCPC, ICPC, EFCC, NITDA, NHRC and CBN to Jointly Investigate Rights Violations in Money-Lending Industry. - Federal Competition & Consumer Protection Commission' (*Federal Competition & Consumer Protection Commission* 15 November 2021) <<https://fccpc.gov.ng/fccpc-icpc-efcc-nitda-nhrc-and-cbn-to-jointly-investigate-rights-violations-in-money-lending-industry/>> accessed 11 April 2023.
- Federal Competition and Consumer Protection Commission, 'FCCPC, ICPC, EFCC, NITDA, NHRC and CBN to Jointly Investigate Rights Violations in Money Lending Industry: Initial Enforcement Operations by Joint Task Force (FCCPC, NITDA and ICPC) - Federal Competition & Consumer Protection Commission' (*Federal Competition & Consumer Protection Commission* 14 March 2022) <<https://fccpc.gov.ng/fccpc-icpc-efcc-nitda-nhrc-and-cbn-to-jointly-investigate-rights->

violations-in-money-lending-industry-initial-enforcement-operations-by-joint-task-force-fccpc-nitda-and-icpc/> accessed 11 April 2023.

- Financial Services User Group ‘Responsible Consumer Credit Lending FSUG Opinion and Recommendation for the Review of the Consumer Credit Directive’ (2019) <https://finance.ec.europa.eu/system/files/2019-04/fsug-opinions-190408-responsible-consumer-credit-lending_en.pdf> accessed 29 May, 2023.
- ‘Fraudulent Digital Lending Android App Steals Users’ Sensitive Data’ (Cyble, 30 November 2022) <<https://blog.cyble.com/2022/11/30/fraudulent-digital-lending-andriod-app-steals-users-sensitive-data/>> accessed 11 April 2023.
- Gabriela M, ‘Digital Lending in Kenya: Willingness vs. Capacity to Repay | Center for Financial Inclusion’ (Centerforfinancialinclusion.org2021) <<https://www.centerforfinancialinclusion.org/digital-lending-in-kenya-willingness-vs-capacity-to-repay>> accessed 27 February 2023.
- ‘Google to Require Government License from Personal Loan Apps in Kenya, Nigeria Starting in February 2023’ (BitcoinKE29 November 2022) <<https://bitcoinke.io/2022/11/google-requirements-from-personal-loan-apps/>> accessed 11 April 2023.
- ‘Giving Users More Transparency and Control over Account Data’ (Android Developers Blog2023) <<https://android-developers.googleblog.com/2023/04/giving-people-more-control-over-their-data.html>> accessed 11 April 2023.
- ‘HowWhat an Online Lenders’ Crude, Offensive Tactics Push Borrowers into Depression, Suicide (1)’ (Punch Newspapers, 8 March 2022) <<https://punchng.com/how-online-lenders-crude-offensive-tactics-push-borrowers-into-depression-suicide-1/>> accessed 9 April 2023
- Idris A, ‘The Nigerian Fintech Boom, by the Numbers’ (Rest of World, 23 September 2021) <<https://restofworld.org/2021/five-nigeria-fintech-stats/>> accessed 11 October 2022.
- Ike-Ojo O P, ‘Sources of Consumer Credit Regulation in Nigeria’ in Philemon Iko-Ojo Omede (ed),’ *Nigerian Consumer Credit: Law, Regulation and Market Insights* (Springer International Publishing 2022)
- Izuaka M, ‘Nigeria’s Unemployment Rate Projected to Hit 37% - NESG’ (Premium Times Nigeria, 19 January 2023) <<https://www.premiumtimesng.com/business/business-news/576709-nigerias-unemployment-rate-projected-to-hit-37-nesg.html>> accessed 1 March 2023.
- Kashcash, ‘Kashcash-Personal Loan Online’ (Google.com2021) <<https://play.google.com/store/apps/details?id=ng.kashcash.kash&hl=en&gl=US&pli=1>> accessed 18 December 2022.
- Kellogg S, “How US, EU Approach Regulating ‘Dark Patterns’” (iapp.org, December 2020) <<https://iapp.org/news/a-more-precise-guideline-and-addressing/ongoing-dark-pattern-regulation/>> accessed 28 September 2022.
- Kene-Okafor T, ‘Nigerian Digital Bank Carbon Hit \$240M in Payments Processed Last Year, up 89% from 2019’ (TechCrunch, February 2021) <<https://techcrunch.com/2021/02/01/nigerian-digital-bank-carbon-hit-240m-in-payments-processed-last-year-up-89-from-2019/>> accessed 26 February 2023.

- Kene-Okafor T, 'With over 1.3 million Users, Nigerian-Based Fintech FairMoney Wants to Replicate Growth in India' (*TechCrunch*, 18 February 2021) <<https://techcrunch.com/2021/02/18/with-over-1-3-million-users-nigerian-based-fintech-fairmoney-wants-to-replicate-growth-in-india/>> accessed 26 February 2023.
- Kenton W 'Unfair Trade Practice: Definition, Deceptive Methods, and Examples' (*Investopedia*: 2020) <<https://www.investopedia.com/terms/u/unfair-trade-practice.asp>> accessed 11 April 2023.
- Komolafe B, 'Competition by Banks, Fintechs Drive Consumer Loans up 43% to N1.8trn' (*Vanguard News* 20 December 2021) <<https://www.vanguardngr.com/2021/12/competition-by-banks-fintechs-drive-consumer-loans-up-43-to-n1-8trn/>> accessed 2 March 2023.
- Kiruga M, 'This Lending App Loves You until You're Late on a Payment. Then the issues that Shaming Begins.' (*Rest of World*, 26 May 2020) <<https://restofworld.org/2020/okash-microlending-public-shaming/>> accessed 12 October 2022.
- KMS Solutions 'Benefits of Using Digital Lending Platform' (*Kms Solutions*, 27 February 2022) <<https://blog.kms-solutions.asia/benefits-digital-lending-platforms>> accessed 10 October 2022.
- Komolafe B, 'Competition by Banks, Fintechs Drive Consumer Loans up 43% to N1.8trn' (*Vanguard News*, 20 December 2021) <<https://www.vanguardngr.com/2021/12/competition-by-banks-fintechs-drive-consumer-loans-up-43-to-n1-8trn/>> accessed 27 October 2022.
- Leenes R, 'Regulating New Technologies in Times of Change' in Leonie Reins (ed), *Regulating New Technologies in Uncertain Times* (TMC Asser Press 2019) <https://doi.org/10.1007/978-94-6265-279-8_1> accessed 21 May 2023.
- Manyame A and Oloyede R, 'Dark Design: The Art of Deception by Design' (*Tech Hive Advisory*, 25 December 2020) 6 <<https://techhiveadvisory.org.ng/wp-content/uploads/2021/11/th-DARK-DESIGN.pdf>> accessed 28 September 2022.
- Marietjie B, 'Autonomy and the guideline should be addressed: Social Dilemma of Online Manipulative Behavior' [2022] *AI and Ethics* <<https://doi.org/10.1007/s43681-022-00157-5>> accessed 19 December 2022.
- Marie M, Seldal N, and Nyhus EK, 'Financial Vulnerability, Financial Literacy, and the Use of Digital Payment Technologies' [2022] *ResearchGate* <https://www.researchgate.net/publication/359064372_Financial_Vulnerability_Financial_Literacy_and_the_Use_of_Digital_Payment_Technologies> accessed 9 April 2023.
- Medine D, 'Making the Case for Privacy for the Poor | Blog | CGAP' <<https://www.cgap.org/blog/making-case-for-privacy-for-poor>> accessed 9 April 2023
- McCrocklin S, 'Challenges Facing Financial Inclusion in Nigeria - GeoPoll' (*GeoPoll*, 22 October 2019) <<https://www.geopoll.com/blog/challenges-financial-inclusion-nigeria/>> accessed 26 February 2023.
- Musa S and Ngwu S, 'Towards a Data Protection Legislative Framework in Nigeria: Accessing the Regulatory and Legislative Attempts to Enact a Data Protection Law' (*Tech Hive Advisory*, 2021) <<https://techhiveadvisory.org.ng/wp-content/uploads/2022/07/The-legislative-journey-.pdf>> accessed 12 October 2022.

- Njanja A, ‘Google Removes Hundreds of Kenya-Focused Loan Apps from Play Store’ (*TechCrunch*24 March 2023) <<https://techcrunch.com/2023/03/24/google-removes-hundreds-of-kenya-focused-loan-apps-from-play-store/?guccounter=1>> accessed 11 April 2023.
- Nigeria Information Technology Development Agency ‘NITDA Sanctions SokoLoan for Privacy Invasion – NITDA’ (*Nitda.gov.ng*17 August 2021) <<https://nitda.gov.ng/nitda-sanctions-soko-loan-for-privacy-invasion/4914/>> accessed 11 April 2023.
- Nguyen S and McNealy J, ‘The Impact of Dark Patterns on Communities of Color’ (*Medium*, 17 May 2021) <<https://points.datasociety.net/the-impact-of-dark-patterns-on-communities-of-color-8063f2f9f8fe>> accessed 28 September 2022
- NITDA, ‘NITDA Sanctions SokoLoan for Privacy Invasion – NITDA’ (*Nitda.gov.ng*17 August 2021) <<https://nitda.gov.ng/nitda-sanctions-soko-loan-for-privacy-invasion/4914/>> accessed 19 December 2022
- NOWNOW, ‘NowNow’ (*Google.com*2021) <<https://play.google.com/store/apps/details?id=com.nownow.android&hl=en&gl=US>> accessed 18 December 2022
- Nzekwe H, “‘Mobile Loan Sharks’ And ‘Social Shaming’ Invade Nigeria Unchallenged’ (*WeeTracker*, 26 July 2021) <<https://weetracker.com/2021/07/26/mobile-lending-nigeria/>> accessed 9 April 2023
- Okafor E, ‘Why Nigeria Needs Robust Credit Assessment Infrastructure’ (*Businessday NG*, 22 February 2022) <<https://businessday.ng/business-economy/article/why-nigeria-needs-robust-credit-assessment-infrastructure/>> accessed 1 March 2023
- Olatunji O, ‘Loan Apps Ruined Their Reputations. A Shady Online Market Offered to Repair Them’ (*Rest of World*27 October 2022) <<https://restofworld.org/2022/nigeria-loan-apps-reputation/>> accessed 27 February 2023.
- Olisah C, ‘FCCPC Indicts Google over Defaulting Online Money Lending Banks, to Use US Law Enforcement’ (*Nairametrics*, 1 April 2022) <<https://nairametrics.com/2022/04/01/fccpc-indicts-google-over-defaulting-online-money-lending-banks-to-use-us-law-enforcement/>> accessed 29 May 2023.
- Olowogboyega O, ‘The Race Is on to Improve Data for Lenders in Nigeria’ (*TechCabal*, 6 January 2021) <<https://techcabal.com/2021/01/06/digital-lenders-need-data/>> accessed 26 February 2023.
- Omede PI, ‘A Tale of Two Markets: How Lower-End Borrowers Are Punished for Bank Regulatory Failures in Nigeria’ (2019) 43 *Journal of Consumer Policy* 519 <<https://link-springer-com.tilburguniversity.idm.oclc.org/article/10.1007/s10603-019-09439-8>> accessed 27 February 2023.
- Okafor E, ‘Seven in 10 Bank Customers Lack Access to Credit. Can Fintech Save the Day?’ (*Businessday NG*27 April 2021) <<https://businessday.ng/financial-inclusion/article/seven-in-10-bank-customers-lack-access-to-credit-can-fintech-save-the-day/>> accessed 19 December 2022.
- Okogba E, ‘FCCPC Freezes Accounts of Digital Money Lenders’ (*Vanguard News*25 March 2022) <<https://www.vanguardngr.com/2022/03/fccpc-freezes-accounts-of-digital-money-lenders/>> accessed 19 December 2022

- Olorogun T, Oresanwo V and Darego P, 'Digital Lending and Abuse of Borrower's Rights - Multifarious and Chaotic Regulation' (*Businessday NG*, 18 November 2022) <<https://businessday.ng/news/legal-business/article/digital-lending-and-abuse-of-borrowers-rights-multifarious-and-chaotic-regulation/>> accessed 19 December 2022
- Onyango S, 'Piling into a future \$180 billion African internet economy' (Techcabal, 9 March 2022) <<https://techcabal.com/2022/03/09/piling-into-a-future-180-billion-african-internet-economy/>> accessed 9 September 2022
- Olowogboyega O, 'In Search of Quick Loans, Nigerians Give up Privacy' (*Tech Cabal*, 14 October 2019) <<https://techcabal.com/2019/10/14/in-search-of-quick-loans-nigerians-give-up-privacy/>> accessed 12 October 2022
- Owens K and others, "Exploring Deceptive Design Patterns in Voice Interfaces" (September 2022) <<https://homes.cs.washington.edu/~kentrell/static/papers/owensEuroUSEC2022-preprint.pdf>> accessed September 2022
- Owens K and others, 'Exploring Deceptive Design Patterns in Voice Interfaces' (2022) European Symposium on Usable Security.
- Owoyele T, 'Nairaplus, 9Cash... Quick Loan Apps Driving Nigerians to Suicide' (*Foundation For Investigative Journalism*, 11 December 2021) <<https://fij.ng/article/nairaplus-9cash-quick-loan-apps-driving-nigerians-to-suicide/>> accessed 12 October 2022
- Oyeleke S, 'FG Orders Google, Apple to Deactivate "illegal" Online Banks, Loan Apps' (*Punch Newspapers*, 14 March 2022) <<https://punchng.com/fg-orders-google-apple-to-deactivate-illegal-online-banks-loan-apps/>> accessed 10 July 2023.
- PalmPay Limited, 'PalmPay - Transfers, Bills' (*Google.com*, 2021) <<https://play.google.com/store/apps/details?id=com.transsnnet.palmpay&hl=en&gl=US>> accessed 18 December 2022.
- 'Press Corner' (*European Commission - European Commission*) <<https://ec.europa.eu/commission/presscorner/home/en>> accessed 29 May 2023
- Punch Newspaper 'Inflation Worsens under Buhari, 63% Nigerians Exhaust Income on Food –Report' (*Punch Newspapers*, 23 August 2020) <<https://punchng.com/inflation-worsens-under-buhari-63-nigerians-exhaust-income-on-food-report/>> accessed 1 March 2023
- Punch Newspapers 'FG Bars Online Banks from Accessing Customers' Photos, Contacts' (*Punch Newspapers*, 10 April 2023) <<https://punchng.com/fg-bars-online-banks-from-accessing-customers-photos-contacts/>> accessed 11 April 2023
- Rasch A, Thöne M and Wenzel T, 'Drip Pricing and Its Regulation: Experimental Evidence' (2020) 176 *Journal of Economic Behaviour & Organization* 353
- Rieger S and Sindors C, 'Dark Patterns: Regulating Digital Design,' 22 <<https://www.stiftung-nv.de/sites/default/files/dark.patterns.english.pdf>> accessed 28 September 2022
- Rock Financials Limited, 'SparkCredit' (*App Store* 4 September 2022) <<https://apps.apple.com/ng/app/sparkcredit/id1643132171>> accessed 18 December 2022.

- Sanni K, 'INVESTIGATION: How Digital Loan Providers Breach Data Privacy, Violate Rights of Nigerians' (*Premium Times Nigeria* 10 December 2021)
- Singh J, 'Google to Prohibit Personal Loan Apps from Accessing User Photos, Contacts' (*TechCrunch* 6 April 2023) <<https://techcrunch.com/2023/04/05/google-personal-loan-apps-update/>> accessed 11 April 2023.
- SparkCredit 'SparkCredit' (*App Store*, 4 September 2022) <<https://apps.apple.com/ng/app/sparkcredit/id1643132171>> accessed 18 December 2022.
- Thelwell K, 'Credit Access in Nigeria Growing as Obstacles Are Addressed' (*The Borgen Project*, 25 January 2018) <<https://borgenproject.org/credit-access-in-nigeria/>> accessed 26 February 2023.
- 'The Ever-Closer Cooperation between Competition, Data Protection and Other Regulatory Authorities in the UK and EU: What It Means for Businesses' <<https://www.twobirds.com/en/insights/2022/global/the-ever-closer-cooperation-between-competition-data-protection>> accessed 29 May 2023.
- Trading Economics 'Nigeria Inflation Rate - January 2023 Data - 1996-2022 Historical - February Forecast' (*Tradingeconomics.com* 2023) <<https://tradingeconomics.com/nigeria/inflation-cpi>> accessed 26 February 2023.
- Ukpe W, 'FCCPC, NDPB Establish Joint Mutual Enforcement Desk for Data Protection of Customers' (*Nairametrics* 21 May 2022) <<https://nairametrics.com/2022/05/21/fccpc-ndpb-establish-joint-mutual-enforcement-desk-for-data-protection-of-customers/>> accessed 11 April 2023.
- Waldman A E, 'Cognitive Biases, Dark Patterns, and the "Privacy Paradox"' (2020) 31 *Current Opinion in Psychology* 106 <<https://www.sciencedirect.com/science/article/pii/S2352250X19301484>> accessed 10 July 2023.
- Will Kenton 'Unfair Trade Practice: Definition, Deceptive Methods, and Examples' (*Investopedia*: 2020) <<https://www.investopedia.com/terms/u/unfair-trade-practice.asp>> accessed 11 April 2023.
- 'World Poverty Clock' (*Worldpoverty.io* 2023) <<https://worldpoverty.io/map>> accessed 25 February 2023.
- Yang R (@richard.ux), 'Ethical Alternatives to Revenue-Generating Deceptive Patterns' (*Medium*, 9 March 2023) <<https://uxdesign.cc/ethical-alternatives-to-revenue-generating-deceptive-patterns-252a0efd9d2d>> accessed 10 July 2023.
- Yue P and others, 'The Rise of Digital Finance: Financial Inclusion or Debt Trap?' [2021] *Finance Research Letters* 102604. 5 <<https://arxiv.org/ftp/arxiv/papers/2201/2201.09221.pdf>> accessed 29 May 2023.