

Fareportal to Pay \$2.6 Million Over Dark Patterns

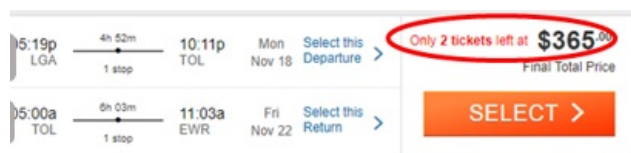
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Last week, the New York Attorney General announced that Fareportal had agreed to pay \$2.6 million to end an investigation over its use of “dark patterns” to manipulate consumers into booking flights and hotel accommodations. As we’ve noted in [previous posts](#), “dark patterns” is arguably a new name to describe practices that have been around for a while, so it helps to see some examples of what the AG alleged Fareportal did.

According to the AG, Fareportal created a “false sense of urgency and social pressure” to push consumers into making decisions they may not have made had they known the full truth. For example, Fareportal would display that only a few flights were available, even if that wasn’t the case. A consumer searching for one ticket would see a message stating “Only 2 tickets left” for certain flights, while a consumer searching for two tickets would see a message stating “Only 3 tickets left.”



The AG alleged that Fareportal used similar tactics when consumers searched for hotel accommodations. For example, a consumer searching for hotel rooms 16 to 30 days before check-in was told that 41 – 70% of hotel rooms had already been reserved, while a consumer searching for hotel rooms 7 to 15 days before check-in was told that 71 – 80% percent of rooms had already been reserved. However, these numbers did not accurately reflect availability.

Beyond these tactics, the AG alleged that Fareportal fabricated information related to the popularity of certain products or services – such as the number of consumers that had purchased insurance, upgraded seats, or were viewing certain listings – and that the company used misleading countdown timers to get consumers to act quickly. In addition, Fareportal allegedly used fictitious prices when advertising purported discounts on airline tickets.

As part of its settlement, Fareportal is required to make significant changes to its marketing practices and to pay \$2.6 million in disgorgement and costs.

The lessons in this case extend beyond the travel industry. For example, it’s common to see messages on retail sites stating how a sale will last, how many products are left, how many

consumers have a certain product in their cart, or how many consumers are viewing that product. Those tactics are fine, if they accurately reflect the facts. But if they don't accurately reflect the facts, those same tactics will be viewed as dark patterns.

As my colleagues [reported](#), we're likely to see an increase in these types of investigations, at both the federal and state level.