

Trusted Design Global Case Study: Africa (Sub-Saharan)

Nonso Jideofor



Focus Area Rationale	2
Landscape Assessment	2
Issue Areas	2
Relevant Infrastructure	4
Stakeholders	4
Recommendations	5
Understand the Deceptive Design Economy	5
Problem	5
Solution	5
Impact	5
Remaining Questions	5
Develop New Kinds of Partnerships	5
Problem	5
Solution	5
Impact	5
Remaining Questions	5
Experience-Centered Awareness Campaigns	6
Problem	6
Solution	6
Impact	6
Remaining Questions	6
References	6

Trusted Design Global Case Study: Africa (Sub-Saharan)

Nonso Jidefor

About the author

Nonso is an experienced design researcher, with expertise in systems thinking, human-centered design, futures thinking, and strategic foresight. He has over a decade of experience enabling partners in global development to understand context, assess needs, problem solve, recognize and act on their own intuition in dynamic and under-resourced contexts. He's the founder of Present Lab - an organization focused on amplifying alternative and new forms of power through supporting global south civil society to build anticipatory capacities and not-for-profit organizations to reimagine diversity, equity, and inclusion.

The following is a region-specific discussion of Trusted and Deceptive Design including an exploration of relevant issues and recommendations. The perspectives and conclusions presented represent those of the author.

Focus Area Rationale

This assessment was done through a Sub-Saharan Africa lens because a quick search didn't reveal much being done on deceptive design in the region and it made more sense not to overly localize the assessment. At the same time, it set the stage for possible comparison if national-level data surfaced in the course of the work. Considering that I am based in Nigeria, more of the examples might come from Nigeria. The methodology involved online searches on Google, LinkedIn, Twitter, and Reddit. It also involved asking members of 2 WhatsApp groups to share some of their encounters and experiences with Deceptive Design.

Landscape Assessment

Issue Areas

Relevant issues related to Deceptive Design affecting the region, and common perceptions

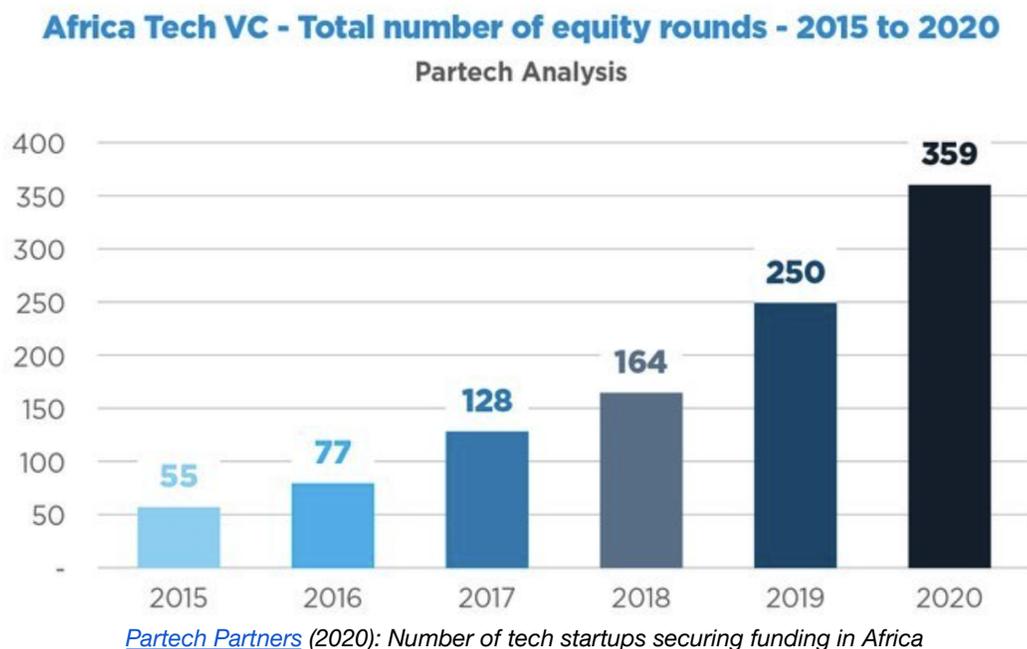
Although a new and developing area of concern and interest, Deceptive Design seems far less mentioned or discussed with or through Africa-specific examples. [Manyame & Oloyede's](#) (2021) report discussed Deceptive Designs in Africa, however, the cases reported were not sufficiently contextualized and the analytical section relied on Global North frameworks (e.g., what the U.S. Federal Trade Commission [FTC] is doing) to set the stage. [Access Now](#) (2021) used this Reddit article by [TestZero \(2019\)](#) to note the increase in complaints about Deceptive Design compared to almost no efforts towards regulation. TestZero's [Reddit community](#) curates deceptive design complaints under the following categories: [Bait and Switch](#), [Dark Pattern](#), [Bad Unsubscribe Function](#), [Content is overrated](#), [Overdone](#), [Clickshaming](#), [Loaded Question](#), [Lampshading](#), [Lethal Enforcers](#), [Satire](#), [Meta](#). Skimming through the many complaints, none seemed to originate from sub-Saharan Africa based on their respective references, languages, tone, images, user IDs, currencies, and quick search results. The community started in September 2014 and by September 2019 reached 1 million subscribers. By September 2022, the community reached 2.9 million subscribers, in the last 3 years, it doubled its growth in its first 5 years. Despite a growing prevalence of Deceptive Design, there wasn't any clear evidence that cases in Africa contributed to those documented on TestZero's [Reddit community](#).

The summary of February 2022 Deceptive and Trusted Design consultations held by Web Foundation notes that the most pressing areas for action on Deceptive Design are privacy, consumer protection, and competition. [Olumide](#) (2022) writes that "up until the emergence of negligible few civil societies which recently made data privacy and protection their core concerns, Nigerians have never really bordered about whatever happened to their data so long their other economic/physical rights remained undisturbed." While privacy is important to Africans, if the hierarchy is considered, it appears to come lower compared to consumer protection. The markets in these countries are beginning to mature and still welcome everything that promises novelty with little concern about their exploitative implications. In more mature markets, there is enough experience to consider ethics, rights, and safety.

In the last three years, Nigeria has been on the cusp of a new bill, officially named the Protection from Internet Falsehood and Manipulation Bill 2019 ([Omilana, 2019](#)), also referred to as the Social Media Bill. Nigeria's civil society and citizens decried this bill as an attempt to stifle free speech and democratic rights. In contrast,

government officials and supporters of the bill say it is an important safeguard for citizens against the transmission of false declarations of fact over the Internet and would create regulations for dealing with instances of such transmission ([Mabika & Ogu, 2022](#)). The tensions between civil society and government can be justified on different fronts, but it is interesting that the focus isn't on the internet falsehood widespread through Deceptive Design. Misinformation thrives on internet platforms operated by loan sharks, betting companies, airlines, and e-commerce businesses, and could be a good reference for action for government and civil society to serve the public, but they manage to fly under their radar.

[Maher et al.](#) (2021) reports that from 2015 through 2020, the number of African technology startups receiving financial backing grew at 46 percent annually ([Partech Partners, 2021](#)); six times faster than the global average. This has also led to the budding of a new set of professionals, tech lawyers ([Blazevic, 2022](#)), who help their companies and clients navigate regulatory landscapes in their respective countries. It appears that the tech lawyers are closest to the subject of Deceptive Designs with the goal of protecting their organizations. Whereas activists and civil society organizations who by default pioneer complaints that might lead to the regulation of such practices are not yet as involved in the subject.



The notes below direct quotations of experiences that people shared over WhatsApp when asked about their experiences and interface with Deceptive Design:

“Discount items on online shops but the discount is intentionally reflected at the exit pay point. They tell you Jumia Black Friday has a 25% discount but actually, a week before Black Friday, they increase prices by 25% then drop it again by 25% during Black Friday so you are actually getting the item at the same price” - Sydney, Legal Practitioner

“A quick one would be informational sites that make you click 20 times to get the whole story” - Uzonne, Technologist

“On Saturday evening, I was browsing when I stumbled on a seemingly authentic site which I opened. When I tried to exit the website I found I could not because other pages kept popping up. It was so frustrating that I had to close the browser I use - chrome. Afterward, I discovered that immediately after I ended a call, a DStv ad started talking in the background, I couldn't trace which app was running in the background. It was extremely annoying. I tried everything I could and also deleted almost all of my previously installed apps but it just keeps on. So I had to switch off and restart my phone after every call. If yesterday were a work day I would have rushed to the GSM village to flash the phone memory. Luckily, I found the settings where I could change the advert ID. When I did that

and restarted the phone it stopped. Within the space of 24 hours, I had gone through severe mental stress in the form of frustration, annoyance, anger, irritation, and all. At some point, I just switched off the phone for hours so I could rest. I use a Tecno Camon 19, purchased 3 weeks ago.” - Legna, Sales Representative

Relevant Infrastructure

Relevant regional regulatory frameworks, policies, or guidelines and standards

According to [Ekweozor \(2020\)](#), the growing subscription of customers to online services offered by the financial, trading, and telecommunications companies in Nigeria, as well as the increasing rate of identity theft and other cyber misdemeanors have necessitated the need for data protection legislation that is aligned to international standards. Following the General Data Protection Regulation (GDPR) in 2018, Nigeria’s National Information Technology Development Agency issued the Nigeria Data Protection Regulation (NDPR) in 2019 to regulate the use and protection of the personal data of Nigerians ([Erikume & Adetokunbo-Ajayi. n.d.](#)).

This seemingly bold move still has limitations considering that it is not an act of the national assembly, and a formal Data Protection Bill to replace the NPDR is sitting before the national assembly for approval ([Erikume & Adetokunbo-Ajayi. n.d.](#)). They also noted that the objective of the Bill is to create a regulatory framework for the protection and processing of personal data and to safeguard the rights and freedoms of data subjects that are guaranteed under the Nigerian Constitution. Although the Bill looks at what data can be collected and how it does not address Dark Patterns or Deceptive Design.

Similar to Nigeria, Kenya’s Data Protection Bill was a subject of discussion for years before being passed into law on November 8, 2019, and followed the path taken by the European Union for GDPR ([Deloitte & Touche, 2021](#)). This law was expedited following concerns raised over the Huduma Namba registration exercise — according to [Musembi Mutisya \(2019\)](#), “the underlying rationale for this registration exercise is to enable the government to capture data of all persons residing in Kenya, as well as Kenyans living abroad with the primary aim of improving access to government services”. Those opposed to the process raised concerns about the safety of citizens’ personal data collected by the Government ([Deloitte & Touche 2021](#)).

Stakeholders

Relevant stakeholders and resources in your region

Within the sub-Saharan African context, the following organizations surfaced in the course of this work to be doing work around deceptive designs.

- Tech Hive Advisory — <https://techhiveadvisory.org.ng/>
- Tech Policy Advisory — <https://techpolicyadvisory.com/>
- Digital Law Haus
- Ikigai Initiative — <https://www.ikigaiinitiative.com/>
- Paradigm Initiative Nigeria (PIN) — <https://paradigmhq.org/>
- Collaboration on International ICT Policy for East and Southern Africa (CIPESA) — <https://cipesa.org/>

Recommendations

Understand the Deceptive Design Economy

Analyze the business impact of Deceptive Design to put in perspective what might get cut off or what businesses already lose through Deceptive Design practices.

Problem

The practicalities that gourd deceptive design along are based on business growth and profitability concerns, yet the drivers to address them are focused on ethical concerns. The absence of a bridge between both spheres of reality for businesses and designers can perpetuate the situation.

Solution

It might be helpful to help businesses situate the contribution made by Deceptive Design toward their overall objectives. How does Deceptive Design contribute to the bottom line of companies? At the same time, conducting an analysis of the potential cost of Deceptive Designs to the business through issues like brand perception, customer retention, and the likelihood of referring the business to others. How is Deceptive Design affecting user experience and brand loyalty? This kind of research can be conducted in partnership with businesses that have indicated an interest in shifting from Deceptive Design.

Impact

Such an approach might help position the advocacy against Deceptive Design practices as sensitive to the interests and challenges that businesses face and less critical of their intentions. Bringing together both bodies of analysis can help bridge the gap between why companies continue to engage in such approaches to design, and the impact on their bottom line.

Remaining Questions

- Does any existing work already establish that Deceptive Design adds significantly to the bottom line of businesses?
- Similarly, has the cost to businesses been previously analyzed?
- Are there existing business data that can readily advance this kind of analysis?

Develop New Kinds of Partnerships

Synergy between legal practitioners leading deceptive design research and civil society organization adept in advocacy and government engagement.

Problem

Legal practitioners more versed in Deceptive Design in Africa are less likely to have social justice incentives and resources that civil society actors have to push for policy change.

Solution

This model has played out between technologists and civil society organizations and has been a key contributor to the formation of civic tech organizations. Legal practitioners appear drawn into the Deceptive Design ecosystems by technical issues such as privacy and data protection, these are potential entry barriers for civil society organizations that might not be particularly keen on navigating a new learning curve but are already skilled in creating advocacy and campaigns for policy change. The civil society landscape might also be experiencing some saturation in terms of the number of actors working on some old issues and can use the injection of new types of issues to help them differentiate.

Impact

This can be a way to ensure that groups of people begin majoring in addressing the challenges and effects of deceptive design.

Remaining Questions

- There are existing synergies between lawyers and civil society organizations, and in some cases, lawyers are effective in advocacy and government engagement. Can these preexisting arrangements help adopt the issues around deceptive design?

- What might existing civil society resources be redirected to deceptive design to reduce the concerns that might arise from the cost of advancing these new sets of priorities?

Experience-Centered Awareness Campaigns

Craft awareness issues and messaging that meets designers and users where they are, rather than where Deceptive Design wants them to go.

Problem

The assumption that people who do Deceptive Designs are not interested in ethical design can be misleading and counterproductive to the effort to curb the issue. Equally misleading is the assumption that people are universally bothered by the consequences of the ethical breaches that arise from Deceptive Design.

Solution

The focus here is less on how awareness is delivered but on what message it should contain for different audiences. Several designers might yet think of Deceptive Designs as smart and effective practices, confronting them with messaging framing their actions as *deceptive* might be jarring and lead to the rejection of the messages. Instead, messaging that encourages reflection on the origins and value-add of such practices could be a better starting point. If the designers can ask what makes the practices successful, and if they have alternative ways of achieving the same objectives, they might intuitively arrive at their own guidance.

On the other hand, users in the region might be keener to engage in the topic if there is data on the economic loss they are subject to due to Deceptive Design. Relying on communications that are heavy on privacy and data protection concerns may be insufficient.

Impact

For designers, avoiding the critical and judgemental tone might allow them to open up and become a part of the solution. For users, the question of “why should they care” needs to be addressed in a way that is not overwhelming.

Remaining Questions

- How can business objectives continue to be achieved with only ethical designs?

References

Access Now. (2021, May 19). Designed to deceive: The rise of dark patterns is manipulating people. *Access Now*.

<https://www.accessnow.org/fighting-dark-patterns/>

Blazevic, A. N. (2022, June 30). The proliferation of technology into law. *LEX Africa*.

<https://www.lexafrica.com/2022/06/the-proliferation-of-technology-into-law/>

Deloitte & Touche. (2021). *Kenya Data Protection Act: Quick guide*.

<https://www2.deloitte.com/content/dam/Deloitte/ke/Documents/risk/Kenya%20Data%20Protection%20Act%20-%20Quick%20Guide%202021.pdf>

Ekweozor, E. (2020). *An Analysis of the Data Privacy and Protection Laws in Nigeria* (SSRN Scholarly Paper No.

3639129). <https://doi.org/10.2139/ssrn.3639129>

Erikume, K., & Adetokunbo-Ajayi, W. (n.d.). *The NDPR and the Data Protection Bill 2020*. PwC. Retrieved November

6, 2022, from <https://www.pwc.com/ng/en/publications/data-protection-bill-2020.html>

Mabika, V., & Ogu, E. C. (2022, February). Internet Impact Brief: Nigeria's Protection from Internet Falsehood and Manipulation Bill 2019. *Internet Society*.

<https://www.internetsociety.org/resources/2022/internet-impact-brief-nigerias-protection-from-internet-falsehood-and-manipulation-bill-2019/>

Maher, H., Laabi, A., & Ivers, L. (2021, April 12). *Overcoming Africa's Tech Startup Obstacles*. BCG Global.

<https://www.bcg.com/publications/2021/new-strategies-needed-to-help-tech-startups-in-africa>

Manyame, A., & Oloyede, R. (2021, March 8). *Dark Design: The art of deception by design*. Google Docs.

<https://techhiveadvisory.org/ng/dark-design-the-art-of-deception-by-design/>

Mutisya, M. (2019, June 7). *The Huduma Number—Digital Identity and Inclusion in Kenya*. Medium.

<https://pesacheck.org/the-huduma-number-digital-identity-and-inclusion-in-kenya-819ccdfd2ae0>

Olumide Babalola. (n.d.). *Data Protection and Privacy Challenges in Nigeria (Legal Issues)*. Retrieved November 6,

2022, from <https://olumidebabalolalp.com/privacy-challenges-nigeria/>

Omilana, T. (2019, December 18). *Nigerians raise alarm over controversial Social Media Bill*.

<https://www.aljazeera.com/news/2019/12/18/nigerians-raise-alarm-over-controversial-social-media-bill>

Partech Partners. (2021). *2020 Africa Tech Venture Capital Report*. Partech.

<https://partechpartners.com/2020-africa-tech-venture-capital-report>

TestZero. (2019, May 26). *One Million Subscribers!* [Reddit Post]. R/Assholedesign.

www.reddit.com/r/assholedesign/comments/bt6szp/one_million_subscribers/