Towards Trusted Design: Envisioning Yesterday's Future

Synthesis Notes

June 1, 2022

About the Workshop

The concept of "Yesterday's Future" is a knowledge elicitation exercise with a focus on current deceptive design practices, how we got here, and how we can leverage this understanding towards a future for the web we want. The workshop aimed to surface collective experiences and understandings about:

- **Today**: the status quo of deceptive design and how/why it's unacceptable
- **Yesterday**: how today's status quo emerged; how it relates to the future we had envisioned
- **Tomorrow**: how understanding the dimensions of difference between yesterday's vision and today's reality can help us course-correct to a better future

Workshop goals:
- A shared understanding of Deceptive Design (and its inverse)
- A shared vision and set of values for the future web we want
- Identification of priority opportunities to pursue to address Deceptive Design

Key Insights:

1. Language matters and can be a tool to divide or bring people together.
   - Dark patterns has racist connotations; lawyer speak can be dense and confusing; Deceptive Design raises concerns for those for whom English is a second language.Deceptive Design is also problematic in the legal context (e.g. 'deception', or intent, is hard to prove) and also fails to consider already written legislation on the more historic terms of "Dark Patterns."
   - Inclusive narrative building to frame mindsets around deceptive design will continue to be an important component of movement building.

2. Lack of standardization or shared frame of reference is hindering movement building.
   - There is a lack of general agreement on when something is a bad pattern and what to do about it.
   - Guidelines of what deceptive design is or how to spot it as well as mechanisms for reporting and enforcement should be focus areas.

3. There's a tension between hyper-local versus global approaches.
   - Global regulation may be a red herring given regional variances in context, power, and impact; where the harms are happening and where the intervention may need to happen may not be the same place
   - Interest in a global approach may not be feasible to achieve given consideration of drastically different contexts,which also underscores the importance of community-driven approaches that foster ground-up awareness, regulation, and enforcement mechanisms (e.g. small claims court).

- Yet, many tech companies are global in impact and efforts to address Deceptive Design should not be limited to only certain regions of the world.
- The case for global coordination should be based on shared definitions, shared evidence, shared ideas around cost/impact of harms, enforcement, and incentives.

4. There is a lack of frameworks, systems and tools for holding actors responsible and accountable for Deceptive Design. Regulation is needed, but the current approach is ineffective due to the following:

- There may be multiple reports of filing legal complaints against Amazon and Google for breaking GDPR, but enforcement does not happen swiftly enough for harms to be avoided (and repercussions may not be severe enough).
- Regulation currently operates in siloed "issue areas" and departments, but laws around data privacy or consumer protections also apply to Deceptive Design as well as other contexts.
- There could be more organized efforts, incentives, and systems for reporting Deceptive Design and clear penalties for them.
- Global coordination (as opposed to global regulation) emerged as a key priority due to concerns about regulation in progress not translating to other contexts. Common reporting structures and mechanisms for identifying harms associated with Deceptive Design are needed.

5. In general, identifying additional types of actors with aligned incentives will be a key step to determining more focused approaches to enforcement or redress.

- Consumers should not pay for fraudulent purchases. Financial services and the banking industry are seen as more effective than the tech industry in stopping bad behavior when it comes to consumer protection
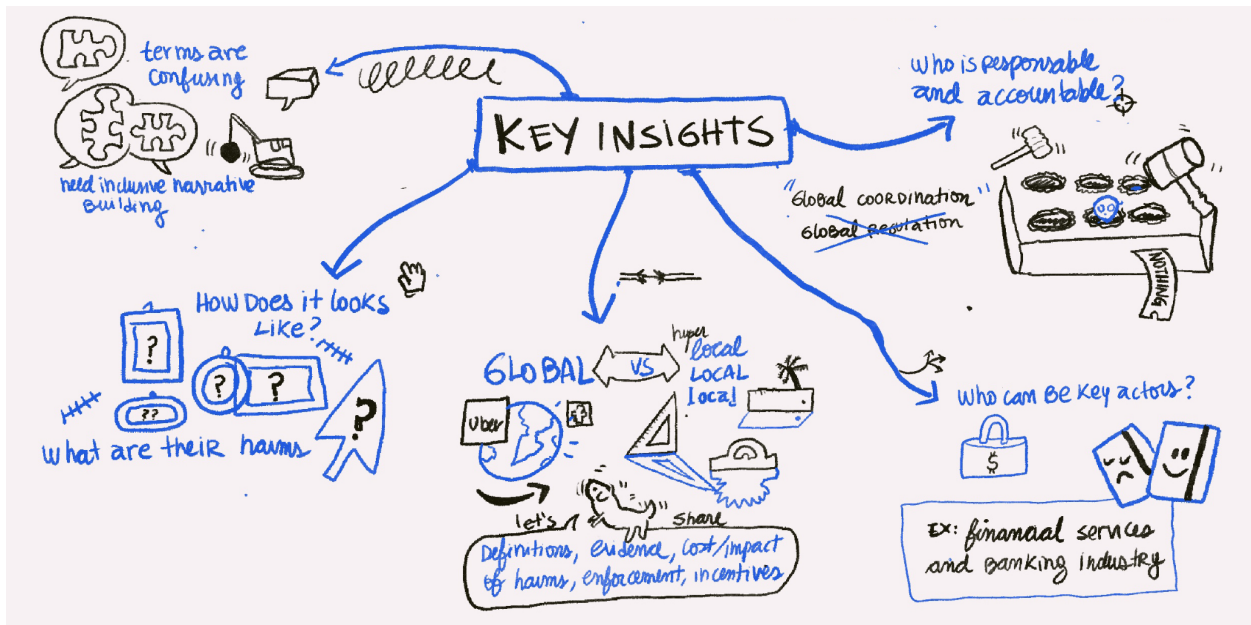
Summarized Possible Interventions:

The following are intervention ideas that participants discussed in the breakout rooms and highlighted in the summary section in the last activity of the workshop. The ideas are grouped in the following categories.

- **Responsible Design Guidelines and Standards**
  - Guidelines and Principles for Trusted Design (i.e. use opt-ins instead of opt-out)
  - Examples and Standards to be developed around UX/UI Practices (i.e. subscriptions around data, how an unsubscribe buttons should look like)
- **Global Collaboration Framework/s and Tools for tackling Deceptive Design**
  - Global collaboration/multilateral structures and mechanisms in place for people to report issues
  - Tools that leverage data standards to help people manage their digital footprint online
  - Tools for identifying Deceptive Design harms (i.e. portal to track problems)
  - Bounties
- **Incentives in education and adoption**
  - Global Accreditation for companies
  - Certification for Designers and Product Managers
  - Improved Design curriculum or education system with focus on ethics/ethical design
- **Public Advocacy/Cultural Strategy**
  - Narrative Building e.g. common language or design media
  - Campaigns and competitions for Trusted/Responsible Design
  - Digital Societal Journalism
- **Innovative Regulation**
  - Multilateral regulatory bodies (with shared best practices) or regulatory bodies running broad and inclusive consultative processes
  - Grassroots solutions to regulation (pushing regulation to the city level)
  - Strategy and roadmap for involving other players (Banking institutions)
  - Design impact assessment test as a service
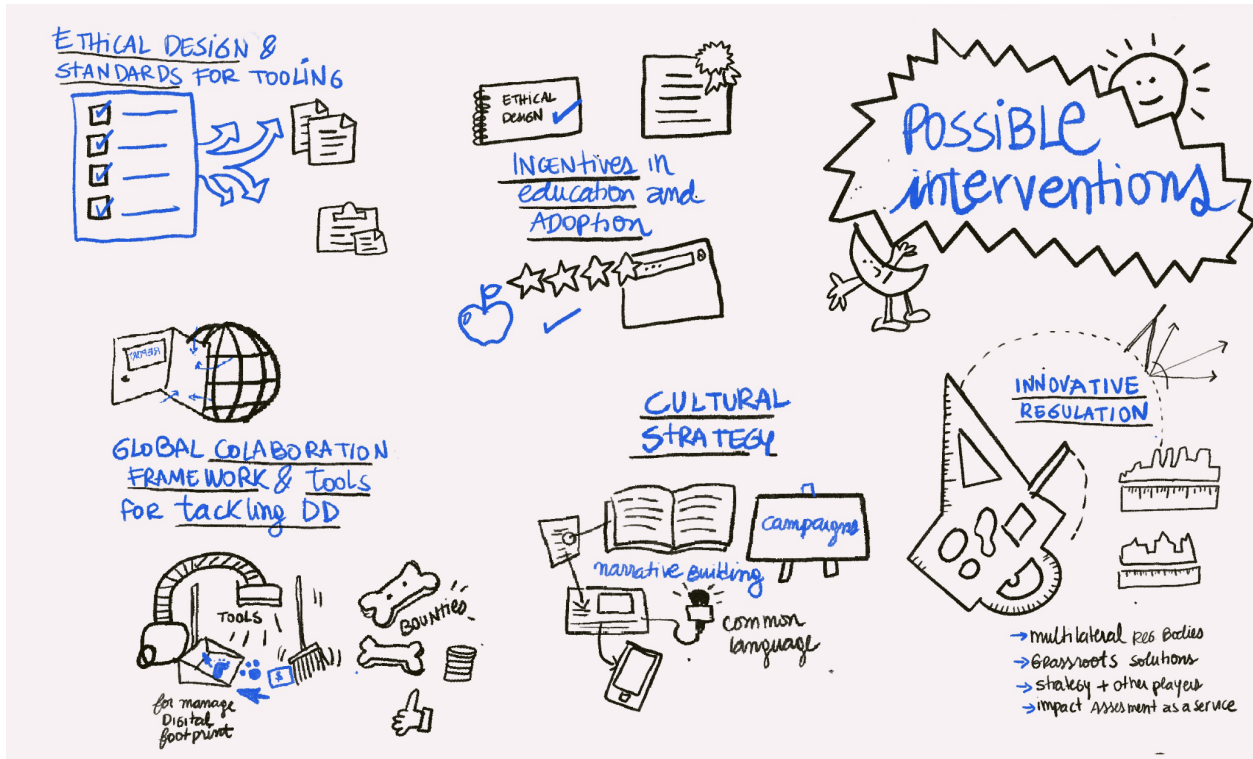
Imagining how the experience of Trusted Design will/should look like:

Participants have described examples of how the experience of Trusted Design should ideally look like in 5 years. These ideas emerged out of current lived experiences of Deceptive Design and how they can be evolved towards more Trusted Design.

- One-click user choice: allowing users to exercise their choices without multiple click-through screens
- Actual privacy by default and design - Consumer-friendly option first
- Smarter technology that helps us take better decisions e.g. smart browsers preventing you to make mistakes
- Smart tools that identify deceptive design patterns for the user
- As easy to unsubscribe from a service as it is to subscribe
- Easy process to delete profiles and accounts on shopping websites
- Banking institutions play a role in ending subscriptions
- Data portability
- Reporting: "Identify the instance where you felt lack of control over your choices."
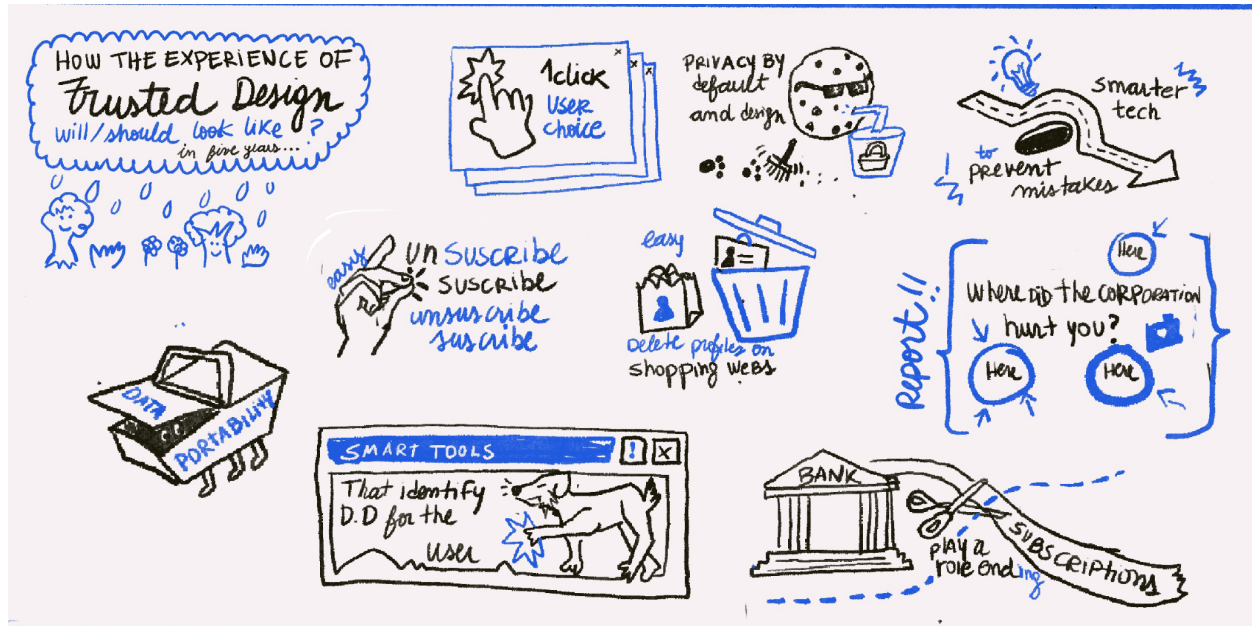
How the experience of Trusted Design would feel like:

- Design that leaves users satisfied with their choices
- Users will are in control of the the decisions they make online (as well as their data)
- Ongoing consent ("no means no")

Suggested alternative names for Trusted Design:

- User-empowered Design
- Accountable Design
- Design where people are not manipulated
- Empowered Design
- Rights Based Design
- Unbiased Choice systems
- Agency and Choice, Transparency

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