

# How 'sludge' joined our vocabulary



**T**en years on from the conceptualisation of 'nudge' by Richard Thaler and Cass Sunstein, with the publication of their bestselling book of that title, the word is established in our vocabulary. As an evolutionary development, 'sludge' is becoming recognised as its antonym. Thaler and Sunstein asked that people 'nudge for good', but it's clear that companies and organisations don't always do this. They can – and are – taking advantage of innate consumer traits and fallibilities, such as inertia and inattention. They do this knowing they can profit from consumer weaknesses and biases, but in ways that hurt, rather than promote, consumer welfare.

Sludge has been coined to label, shame and, increasingly, regulate against this sort of behaviour. It includes hidden add-ons, long and confusing fine print, complex subscriptions, or bureaucratic red tape and paperwork.

Thaler recently defined two types of sludge: one discourages behaviour that is in a person's best interest, such as claiming a tax rebate; the other encourages self-defeating behaviour, such as investing in a deal that's too good to be true.

Think how many services to which you subscribe – probably Netflix, Amazon Prime, Spotify or Audible, to name just a few. Analysis, this year, by ING estimates that the average European household spends €130 a month on subscriptions – around 5% of total household spending. In business, software as a service has also become increasingly common.

## Sludge as a 'behaviour blocker'

Here, sludge acts as a block to doing what's in our best interest. It might achieve this by taking advantage of consumer inertia, opaque terms and conditions, red tape and complexity, or poor user experience. For example, insurers charging a higher premium-

renewal price to customers. If they don't question the rise and phone to ask for a discount, the higher premium is applied. Rather than being rewarded for loyalty, consumers are penalised.

Subscriptions can often be classified as 'behaviour blocker' sludge, by renewing automatically and being difficult and time consuming to cancel. Behavioural science repeatedly finds that, if an action is too difficult to carry out – if there are too many hurdles

to cross or it's unclear how to go about it – people just won't bother, or they will postpone it until they are less busy (a time that often never arrives). This is more challenging now because of the sheer number of subscriptions we have.

A good proportion of our subscriptions are wasted. A UK Citizens Advice survey found that

people paid £160 on unwanted subscriptions between June and August 2017. In 2017, US telemarketing firm Suntasia faced a federal lawsuit after charging hundreds of thousands of customers an average of \$239 each for worthless subscriptions.

A team of researchers ran an experiment to see which method of cancelling subscriptions worked best. Its paper, in *The Economic Journal*, found when subscriptions were terminated by default 99.8% of customers went ahead and cancelled their subscription. When they had to act to cancel, however, just 36.4% did so. Even more worryingly, less educated consumers living in poorer areas were less likely to cancel.

## Sludge as 'behaviour enticer'

Here, sludge persuades us to do something that isn't in our best interest, by drawing on common psychological traits. For example, insurance add-ons in the form of pre-ticked boxes appear to be a recommendation to purchase, and can take advantage of our desire for 'peace of mind'. 'Drip pricing' – where consumers are initially attracted to a temptingly low headline price and then

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underestimate the cost of ‘add-ons’ – is another example. In 2012, concerns about this led the UK regulator, the Competition and Markets Authority (CMA), to curtail some airline payment surcharges. Hotel booking sites often use techniques – such as pressure selling, misleading rankings in search results and hidden charges – to entice us to ‘book now’. Again, the CMA has launched an investigation into these practices.

Subscriptions tend to feature in this category because they often employ ‘bait and switch’ models of payment. A low price or free initial trial is used as a bait, with fees then rising, often in an obfuscated way, with little or no communication to warn consumers that their trial period is ending.

Experiments run by the European Commission (EC) in 2016 found that, when an attractive price is very prominent, consumers tend to be distracted from subscription fees. They also commonly suffer from over-confidence, thinking they will remember to cancel a free trial/subscription. Further research from Ioannis Ampazis, of the EC, revealed that more than 97% of the offers screened used a misleading practice, and half of the free trials and subscriptions included five problematic practices, such as poor clarity around subscriptions and trials.

Chancellor Philip Hammond announced plans to tackle this sort of subscription sludge in the March 2017 Budget. He pushed to make subscription terms clearer and included proposals to prevent “unexpected payments”. He also handed regulators greater power to fine companies in breach of these standards.

## Implications

- The concept of sludge has been conceived – what’s significant is that it is being used in a positive way to label and shame tactics and techniques that, arguably, take advantage of the consumer, leaving them worse off
- Encouragingly, there is already regulator restriction on sludge techniques in some sectors, such as airlines and hotel bookings
- Don’t be surprised to see a crackdown on sludge techniques in other sectors, particularly the subscription economy
- Keep an eye out for the growth of personal subscription manager companies and apps to help people manage their subscriptions (similar to open-banking portals, but for subscriptions).

