

Agenda 2019

Daily digital living

Consumer protection: why and how?

The Consumer Authority's primary task is to ensure that businesses adhere to regulations about fair marketing and contractual terms when dealing with consumers. One way we do this is to crack down on illegal conduct. But preventive measures are just as important. Taking as our starting point our work with individual cases, we must generate awareness of, and a debate about, the importance of consumer protection.

Strong consumer protection will contribute to a healthier economy, trust in the actors involved, and genuine freedom of choice for informed consumers. This benefits everyone. Not only consumers, but also businesses that wish to comply with the Marketing Control Act. This requires knowledge, insight, trust and confidence.

Our first year as the Consumer Authority – what now?

We have been the Consumer Authority since 1 January 2018. More importantly, from the same date we have been empowered to take direct enforcement action and impose financial penalties against those who break the law. These changes were made with the goal of achieving more effective enforcement, through the imposition of stronger measures to combat illegal marketing and unreasonable contractual terms.

How has it gone? Have we become a more effective supervisory authority? In my opinion, the answer is clearly yes. We have issued more administrative decisions than ever before, have given notice of a corresponding number, and have several ongoing cases involving clear breaches of the law and potential administrative decisions. It is clear that it has become easier for us to take action against illegal marketing and unfair contractual terms, which in turn has resulted in greater day-to-day security for consumers.

Dialogue and guidance will continue to be our instruments of choice for ensuring that businesses stay within the boundaries of the law. We find that businesses listen to us, and take action to rectify potential illegalities when we identify them. Understanding why legal boundaries have been set exactly where they are is an important prerequisite for a willingness to comply with the law.

We will follow up the government's goal of supervising businesses more effectively by using several of the means we have at our disposal – maintaining a good dialogue with the actors involved; providing guidance; and by cracking down on clear breaches of the law.

A major restructuring of consumer protection

On 10 January 2019, the government announced its decision to restructure the bodies responsible for consumer protection. The Consumer Authority will take over responsibility for handling all consumer complaints. Previously, these have been handled by the Consumer Council, the Secretariat for the Market Council and the Consumer Disputes Commission. The government has also decided to relocate the Consumer Authority to the Grenland region of Telemark County. This process is expected to be completed within two years.

These decisions will affect the Consumer Authority's priorities in the coming years. While we incorporate these new tasks into the work of the Consumer Authority, we shall endeavour to facilitate a smooth restructuring process and do our best to take care of the employees who

are affected. The Consumer Authority will continue to fulfil its existing tasks; throughout the restructuring we will continue to be a prominent and accessible supervisory authority for both businesses and consumers.

Insert signature (same as last year's Agenda): Elisabeth Lier Haugseth, Director General of the Consumer Authority

What will influence our priorities in 2019?

Protecting digital consumers

Digital transformation has changed marketing: it has made it more targeted at individuals; opened up new channels for exerting commercial influence; and increased overall marketing pressure. It has affected all consumer sectors, causing the emergence of new services, changes in the nature of markets, and altered consumer behaviours. In many ways, digitisation has made it easier to be a consumer. But it has also made consumers more vulnerable.

The Consumer Authority has seen these trends affecting all sectors and markets with which we are involved. Our absolute priority is to ensure that the level of consumer protection is not changed as we encounter new online marketing methods and contractual terms. Misleading and aggressive marketing is no less illegal simply because it happens online. Contracts must be fair, clear and balanced, including when they are entered into electronically. Consumers should be safe in their daily digital lives.

Borderless trade

We are travelling more, buying more, and we are less dependent on brick-and-mortar shops. Businesses are establishing themselves across national borders, and the development of eCommerce means that we can buy virtually anything from anywhere, regardless of where in the world the business is physically based.

Ethical and sustainable trading as a marketing gimmick

Consumers say that they want to contribute to the development of a more sustainable society. Less environmental impact and more ethical production and trading practices are important for consumers, but making the “right” choices is proving to be a difficult task. Businesses use claims about ethics, sustainability and the environment in their marketing campaigns because they believe such claims are effective in winning over consumers. In such cases, these marketing claims have to be true, not merely empty words.

New marketing channels and methods

Advertising that is targeted on the basis of people's everyday activities online has become a routine phenomenon. If you search for a new kayak, over the next few days you will be inundated with offers for kayaks and related equipment. These can be useful for comparing quality and price. But a flood of offers is less welcome when algorithms detect that you need to purchase funeral-related services, and adverts from funeral parlours continue to appear for weeks after the funeral took place.

Personalized marketing campaigns and special offers make it difficult for consumers to obtain an overview of the market, and often it has become more difficult for consumers to form an opinion. The methods used to target consumers with special offers are becoming ever more advanced and more businesses want to use consumers' search patterns, salary and payment histories, and even their mental states for the purposes of market segmentation. But how can you compare prices if a special offer is based on specific criteria,

and you don't know what price would be quoted to your neighbour for exactly the same kayak?

These new marketing channels and methods also pose a challenge for the Consumer Authority and the ways in which we approach new problems.

In 2019, our work will focus in particular on the following:

- Children and young people, and the unrealistic body image expectations promoted on social media. Here we will be collaborating with the Norwegian Media Authority and an expert committee on influencer marketing;
- Children and young people on social media, especially as regards new marketing techniques;
- The marketing of consumer loans and credit, in light of plans announced by the government to tighten the rules on marketing financial services; and
- The sale and marketing of residential real estate – both new and used homes – with a special focus on holiday homes and home rentals.

Priority areas

Loans, credit and other financial services

Loans and credit are a priority area for the Consumer Authority. Since I took up my post as Consumer Ombudsman in December 2016, the total amount of unsecured consumer debt in Norway has increased by around NOK 20 billion – from over NOK 90 billion up to the staggering current total of NOK 110 billion. This type of debt is growing at a disturbingly rapid pace, and many consumers will experience problems with repayments. There is a great deal of high-pressure marketing in this sector, and we fear that the misleading marketing of consumer loans and credit has potentially serious consequences, both for individual consumers and for society as a whole.

We will supervise the marketing of consumer loans and credit in digital media, traditional media and in brick-and-mortar retail environments. The Consumer Authority will work to ensure that consumers are not exposed to misleading and aggressive marketing campaigns for consumer loans and credit. Our concern is that the marketing of loans and credit should always contain price information, and that discounts, bonuses and other advantages should not feature more prominently than the information about price. Consumers must receive accurate, objective information about the costs and other key aspects of a credit agreement before signing it.

The new Financial Contracts Act, which is expected to be enacted by the Norwegian Parliament in 2019, has the potential to have a positive effect on this market. In addition, it will bring about changes in many other financial services. Third parties acting as intermediaries between customers and banks are already permitted to provide payment and account services. In addition, the banks' standard contracts for everything from online banking to debit cards will have to be revised. Here the Consumer Authority will play an important role in ensuring that contractual mechanisms and terms for services that are of such importance for consumers are fair, balanced, and compliant with statutory requirements.

The housing market – new-build and used homes

All consumers need somewhere to live, and most consumers will enter into contracts to rent or purchase a home at various points during their lives. Home buyers have to read and understand a great deal of information, and for many people this feels like an overwhelming task. Accordingly, it is especially important that information about a prospective home is

communicated in a clear and balanced manner, so that the consumer can avoid expending unnecessary time and effort when comparing, and choosing between, potential new homes.

Real estate advertising has changed, and increasingly advertisements are appearing on social media and other digital channels where marketing can be targeted on the basis of data about consumers. In addition, 2018 saw changes in how homes are marketed online. These affected both the website Finn.no and digital property descriptions on real estate agents' websites.

At the end of last year, the Consumer Authority launched new guidelines for the marketing of homes. The aim was to ensure that real estate agents and other parties involved in the marketing of homes comply with the provisions of the Marketing Control Act, regardless of the platform being used. The aim is for all material information about homes to be communicated clearly and accurately, so that the consumer is not misled. In 2019, we will further develop these guidelines, which will be updated as new technologies and issues emerge.

As a follow-up to the guidelines, the Consumer Authority will monitor real estate agents' marketing of both new and used homes throughout 2019.

Digitisation and developments in the housing market have brought about new concepts in the residential sales sector. Examples of these are digital brokerage services, new insurance products, and schemes with non-standard terms that are designed to make it easier for first-time buyers to get on the housing ladder. We will endeavour to ensure that actors do not omit to comply with the Marketing Control Act when introducing new concepts and adopting new technologies and new methods. Promotional material and contract terms must continue to be fair and clear so that even inexperienced home-buyers can feel secure.

We see reports of a high level of disputes in the home-buying sector, and in the run-up to Christmas 2018, proposals were put forward for amendments to the Alienation Act and the regulation of home survey reports and valuations in order to make the process of buying a home more secure. The Consumer Authority is positive about revising the regulations applicable to the residential sector of the real-estate market and will work actively towards ensuring the adoption of amendments to improve the information provided to buyers about the technical condition of homes. This will reduce the number of disputes and make the process of buying a home more secure for the majority of people.

Digital services, digital platforms and smart products

New platforms, apps, the sharing economy and smart products, such as smart fridges and smart speakers that will order you a pizza, are featuring ever more prominently in consumers' everyday lives. In 2019, the Consumer Authority will prioritize protecting consumers as they encounter new digital services and business models. New digital services and platforms are being developed constantly in all sectors. Accordingly, protecting consumers online is an integral part of all our work.

Businesses, and particularly entrepreneurs, who are developing smart products and associated services have a great need for guidance, both in relation to requirements concerning marketing and the drafting of contractual terms. In response, we want to provide customized guidance to businesses that sell and produce smart products. It is crucial that their marketing gives the consumer an accurate picture of the product's functionality, and also its limitations.

A particular challenge with smart products is that consumers often buy a product without being aware of all the contracts associated with it. Often there will be several parties and several sets of contractual terms to get to grips with. For example, the consumer may be party to a purchase agreement for the product; a separate subscription contract with the service provider; and yet another contract for the app used to control the product.

In addition to measures to provide guidance, we will pursue individual cases concerning digital services, platforms and smart products when this is in the interest of consumers.

A special focus on consumer data

The Marketing Control Act imposes a number of requirements concerning information that must be supplied to consumers regarding the collection and use of their personal data, as well as the time when this information must be supplied. We also see a growing trend for businesses to contact consumers directly, on the basis of the consumer's data, with offers that are not advertised on the open market. One example concerns mobile phone sales, where businesses contact consumers using dedicated apps or other targeted marketing methods. Technology now enables special offers and special prices to be individually targeted. For consumers this creates problems, because it is more difficult to compare different offers and gain an overview of the market before making a choice. In addition, marketing based on consumer data can be manipulative, high-pressure and in breach of good commercial practice.

Today, there is often no charge for downloading a new app or similar software. These services don't cost money, but instead require you to provide access to your personal data and your electronic footprint. This information has become a currency in its own right.

In 2019, we will provide guidance to businesses on the collection and use of consumer data in commercial contexts. We will do this in collaboration with the Norwegian Data Protection Authority. In particular, this guidance will address the obligation of providers of digital services to comply with both consumer protection and data protection and privacy law. In the digital economy, the Consumer Authority and the Data Protection Authority must work together closely in order to ensure that consumers are properly protected.

Electronic communications - telecoms

Access to the internet via fixed-line and mobile broadband is a basic necessity for consumers, as it is essential for participation in the digital economy. In addition, there is television, which is often supplied using the same technology. Products and business models in the television, internet access and telecommunications sectors are changing rapidly, and an important part of the supervisory work for these markets involves ensuring that changes comply with applicable consumer protection regulations. We perform our supervisory role by providing guidance and taking enforcement action. We will continue this work in 2019, with a particular focus on price information and the use of lock-in mechanisms.

Internet access can be an expensive service for many households. This is particularly true if one wants to connect through a provider that does not already have infrastructure linking it to the household (most of these cases concern fibre broadband). The sector itself reports great eagerness to invest in infrastructure, as well as fierce competition between providers. Contracts are often sold with lock-in periods, but consumers tell us that providers often omit information, for example on price and contractual obligations when contracts are entered into. Both the Marketing Control Act and the Cancellation Act impose requirements about what information consumers should receive, when they should receive it, and how this information should be supplied. Accordingly, in 2019 the Consumer Authority will look in particular at providers' practices concerning the marketing and sale of fibre broadband.

The Consumer Authority will also work to ensure that consumers continue to benefit from legal protections when new regulations are introduced in the electronic communications markets (through amendments to the EU regulatory framework for electronic communications, for example). In 2019, we will collaborate closely with the Norwegian Communications Authority in order to achieve this.

Social media

There is a steady growth in the use of social media to market products and services, and we see that advertisers are well aware that they can reach consumers more effectively by using influencers to market their products.

The influencer sector is a challenge in itself. Many influencers have little experience – this is particularly true of so-called micro-influencers (ordinary people with an enthusiastic following on social media) – and have no or little knowledge about the rules requiring advertising to be clearly labelled. Influencers who promote products on behalf of advertisers are acting as businesses. They have an obligation to comply with the regulations and ensure that consumers are able to easily identify advertising, so that consumers are not misled. It is important that these influencers, whether they are new to the sector or more experienced, are familiar with the regulations, comply with them, and experience our guidance as easy to understand and relevant.

In 2019, we will give high priority to ensuring that advertisements in social media are clearly and accurately labelled. In particular, we will focus on the responsibilities of advertisers who use influencers as a channel for their marketing. We will also prioritize the provision of guidance to the growing segment of micro-influencers about the regulations on disclosure of advertising.

Children and young people

The Consumer Authority is contacted regularly with comments and queries relating to advertising campaigns targeted at children and young people. Special rules apply to protect children and young people from high-pressure advertising, even though as a general rule there is nothing illegal about targeting marketing at minors. Everyone is influenced by advertising, and young children are even more susceptible. Responsibility for ensuring that children and young people are not exposed to high-pressure, aggressive marketing rests with advertisers, who are also responsible for ensuring that advertisements targeted at this group are clearly identifiable as such.

The Consumer Authority has been focusing on social media for a number of years. Children and young people are very active users of social media, which also have the capacity to generate a particular kind of intimacy with influencers. This may make it difficult to distinguish personal posts from those of a commercial nature. Children and young people are less able than adult consumers to identify advertising material on the various platforms they frequent, and for that reason may be more easily misled if advertisements are not clearly identifiable as such. In 2018, in collaboration with the Norwegian Media Authority, we developed a draft code of ethics on advertising and body image. In 2019, we will continue to crack down on advertisements that encourage an undesirable focus on “perfect” physiques.

Computer games and games on smartphones and similar devices regularly breach the rules on marketing to children. In 2019, we will take enforcement action in cases where we see direct exhortations to buy targeted at children, undisclosed advertising, and breaches of the duty to provide information in accordance with the Cancellation Act.

Online shopping and direct marketing

Not everyone offering goods and services online is doing so with honest intentions. Online fraud, with consumers being tricked into providing their card details and then being charged for unauthorized amounts, is unfortunately widespread. Foreign online shops that try to tempt consumers to order fake branded goods are also the subject of many complaints to the Consumer Authority. On the whole these frauds are perpetrated by foreign actors, and they can be difficult to stop.

In collaboration with other European consumer authorities, the Consumer Authority has developed a regulatory framework designed to stop illegal advertising on social media and on search engines. In 2019, we will use this framework to intensify our dialogue with advertising platforms and banks in an effort to prevent online fraud. As an immediate measure, we will warn consumers about online shops selling fake goods and other kinds of online fraud.

Fortunately, domestic online shopping for goods and services is conducted for the most part within secure frameworks designed to secure the interests of both consumers and businesses. The Cancellation Act and the Marketing Control Act are intended to make online shopping secure, and the Consumer Authority frequently provides guidance to businesses about the relevant regulations. We will immediately consider taking action against any Norwegian businesses found to be violating the law. In 2019, we will focus in particular on mechanisms that make it difficult for consumers to terminate contractual relationships, with regard both to physical and digital products.

Every year, the Consumer Authority receives a large number of complaints about direct marketing where businesses have contacted consumers directly without permission to do so. In the most serious of these cases, the Consumer Authority will issue administrative decisions and impose enforcement penalties for violations.

Marketing and pricing

Consumers are entitled to price information that makes it easy to make sound decisions. In grocery stores, goods must be labelled with the unit price or the price per kilogram/litre. Similarly, all service providers with a website must provide price lists online. The Consumer Authority receives complaints on this topic on a regular basis and we follow these up by taking enforcement action against selected sectors.

Marketing messages containing price promises such as “sale”, “Black Friday”, “cheapest”, “price guarantee” and so on are widespread. The Consumer Authority will continue its efforts to uncover and put a stop to misleading price advertising. Only businesses that really do have the cheapest prices, or that have actually implemented price reductions, are entitled to make such claims, and consumers should not be tricked into paying more than is necessary.

Price-based marketing has also been influenced by technological developments. Certain services and websites make it easier to gain an overview of different prices, while other innovations can make this more difficult. The Consumer Authority will endeavour to ensure that price information is accessible and correct, regardless of the sector or sales channel in question.

Electricity

Many electricity suppliers provide unclear information about pricing and employ complicated and confusing terms. Several suppliers also manipulate consumers with the help of digital tools such as the comparison portals *Strømpris.no* and *Elskling.no*, with the result that

consumers who believe that they have selected a favourable contract often end up with completely the opposite.

Complaints to the Consumer Authority also reveal that several electricity suppliers are operating particularly problematic marketing strategies via telephone selling, promotional stands and door-to-door selling. Consumers are misled either because the information they are given is incorrect or because important information about pricing and other terms is omitted. In addition, many consumers find that their registered preference against receiving unsolicited calls is not respected.

In 2019, the Consumer Authority will take action against electricity suppliers found to be in breach of the Marketing Control Act, and will focus in particular on preventing suppliers from misleading consumers into signing contracts with unfair terms.

The Norwegian Water Resources and Energy Directorate (NVE) is working on several processes that in 2019 and beyond will bring about major changes for all electricity customers. Some of the most important changes involve an increased use of digital technology and new tariffs. We will follow up on these changes and maintain a dialogue with the NVE and the Norwegian Consumer Council in order to ensure that consumers' interests are well protected.

Transport

The travel sector is quick to adopt new digital opportunities. One result is that a very large proportion of travel services are purchased online.

The new Package Travel Act came into force on 1 July 2018, and has updated the concept of "package travel" for the digital age. The Act provides good protections for consumers purchasing several different services, for example flights, hotel accommodation and car rental, through a single provider – even where the provider is not a package tour operator. The Consumer Authority is also aware of the growth of the "sharing economy" as a phenomenon in the transport and travel sector. For example, *Airbnb* has become one of the world's largest hotel chains, even though it doesn't own a single room. The Consumer Authority is actively keeping track of these developments, so that we can take action if necessary against illegal marketing practices and contract terms.

In 2019, new, more stringent requirements will be applied to the taxi sector regarding fare information. Until now it has been difficult for consumers to find out what a taxi ride will cost, and it has been difficult to compare the fares offered by different taxi operators. Under the proposed new rules for the taxi sector, taxi operators will be obliged to provide clearer and better information about fares.

The Consumer Authority will ensure that the taxi sector complies with these new rules, and that consumers are provided with easily understandable information about fares before starting a ride.

Alternative therapies

There is a large market for alternative therapies in Norway. Turnover in the sector is over NOK 4 billion per annum. Strict regulations apply to the marketing of alternative therapies, and therapists are not allowed to give the impression that their treatments will have an effect on specific diseases and conditions, among other things. Even so, the Consumer Authority regularly receives complaints and tips about alternative therapists who are promising more than is permitted.

The marketing of alternative therapies occurs largely via digital channels, such as practitioners' websites and social media accounts. In 2019, we will pay particular attention to

the marketing of alternative therapies via these channels, and continually assess whether we should take action against specific practitioners. In particular, we will prioritize taking action against practitioners who market treatments for serious diseases and conditions, such as cancer and motor neurone disease.

Some clients of alternative therapists are potentially especially vulnerable: people with chronic diseases; people without definitive diagnoses; people facing long waits for treatment; and so on. Accordingly, it is particularly important for us to focus strongly on marketing targeted at this group when considering whether to take enforcement action in individual cases.

International

With large global actors, eCommerce and cross-border marketing, international cooperation on consumer protection is of crucial importance. For many years, the Consumer Authority has prioritised training our staff throughout the organisation to adopt an international mindset, and we have built up good collaborative relationships with supervisory bodies in other countries.

Most of the regulatory framework enforced by the Consumer Authority is based on EU regulations and directives. The Consumer Authority prioritises responding at a national and international level to ensure that new EU legislation does not weaken the rights of Norwegian consumers.

The EU's Consumer Protection Cooperation Regulation (CPC) lays down a cooperation framework to allow national authorities from all countries in the European Economic Area to jointly address breaches of consumer rules when the trader and the consumer are established in different countries. The Consumer Authority gives high priority to its participation in the CPC. A new CPC regulation, which will equip all authorities with stronger instruments for dealing with businesses that are acting illegally, will be incorporated into Norwegian law by January 2020. The Consumer Authority will contribute actively to this process.

The Consumer Authority also participates in the International Consumer Protection and Enforcement Network (ICPEN), which is an informal network of authorities in over 60 countries. In 2019, we will lead an ICPEN project on commercial practices targeted at children and young people, among other things. We are also collaborating with the consumer authorities in the other Nordic countries on this topic, along with other issues of shared interest. The Consumer Authority is also providing input to the OECD's work in the field of consumer protection.