



Enough deception!

Norwegian consumers' experiences with deceptive design

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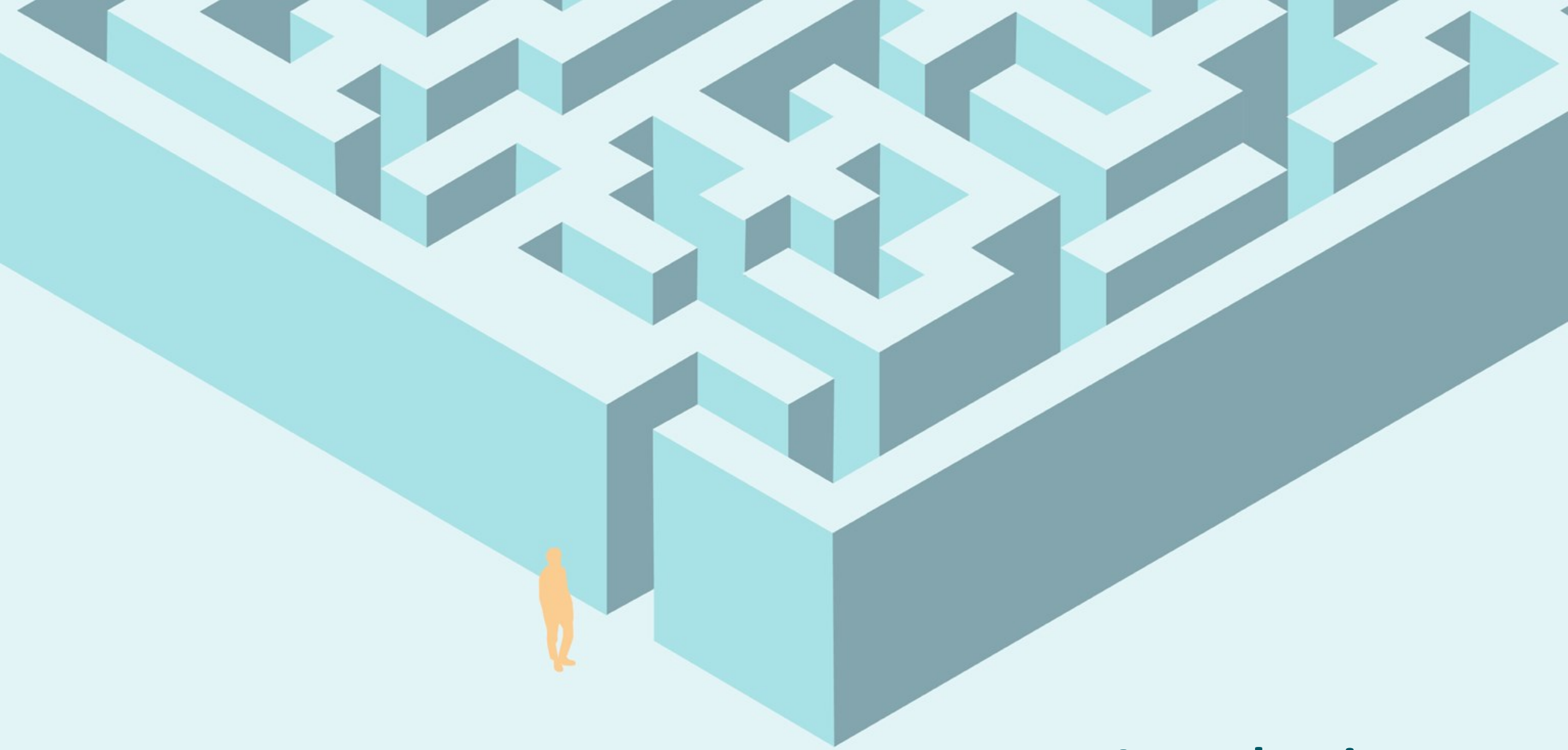
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Introduction

Deceptive design

“... an interface or properties of an interface which steers, deceives or coerces consumers into making a choice which is primarily in the interest of the business”¹

What are the harms to consumers?

For individual consumers, deceptive design comes at the cost of **time, money, and personal data**.²

More broadly speaking, deceptive design may **weaken competition**, as certain companies gain advantages by deceiving consumers, or because it makes it harder to compare prices and services.³ Deceptive design can also **reduce consumer trust** in companies, and therefore weaken markets over time.

Deceptive design contrasts with design that promotes autonomy and consumers' own interests.

How does deceptive design work?

Deceptive design **appeals to consumers' instincts**, and exploits their emotions and cognitive biases.⁴ For example, consumers generally value products and services that other people appear to consider valuable, or that appear scarce.

A single process will often contain **many types of deceptive design**, working in combination. This can make it difficult to understand and pinpoint the effect of one type of design as opposed to the cumulative effect.

Many types of deceptive design **affect us without our knowledge**.

... and does deceptive design have an effect?

Yes, and particular types of deceptive design have significant effects.

Previous work has shown that deceptive design is more effective when used in combination.⁵ Aggressive techniques can be more effective, but result in more pushback from consumers.⁶ Deceptive design in cookie banners has received special attention, and has been shown to affect consumer choice.⁷

Certain groups are especially vulnerable to deceptive designs, such as consumers with low education levels,⁸ children⁹ and consumers under time pressure.¹⁰

Previous work on deceptive design by the NCC

Deceived by design (2018)

On technology companies' use of deceptive design to make consumers accept the most intrusive privacy settings.

You can log out, but you can never leave (2021)

On Amazon's use of deceptive design to make it very difficult to cancel a Prime membership.

Enough deception! (2022)

On Norwegian consumers' experiences with and attitude about deceptive design.

Every step you take (2018)

On Google's use of deceptive design to obtain «consent» to track users' movements.

Insert Coin (2022)

On the sale of loot boxes in video games, which involves the use of deceptive designs.

The Norwegian Consumer Council (NCC) has documented the use of deceptive design over several years, in reports such as «Deceived by design»,¹¹ «Every step you take»,¹² «You can log out, but you can never leave»,¹³ and «Insert Coin».¹⁴

The reports show various ways in which companies use deceptive design to further their own interests, at the detriment of consumers' autonomy and rights. The reports also provide an overview of the theoretical background on deceptive design, and the harms that stem from these practices.

The Australian consumer organisation CPRC (Consumer Policy Research Centre) ran a survey among Australians during the spring in 2022, to find out **how consumers feel about being tricked by deceptive design**.¹⁵

The NCC has now conducted a similar survey, to map the consequences and effects that consumers themselves report experiencing.

This report contains:



Norwegian examples of deceptive design.

Included in the report as examples of deceptive design.



Norwegian consumers' experiences with deceptive design.

Included in the report as findings from the survey, as well as quotes from consumers.



Legal provisions possibly regulating deceptive design in Norway.

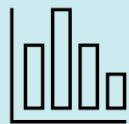
Included in the report as possible legal provisions regulating particular designs, as well as an extensive overview in the appendix.

Work process and methodology

During the first stages of this project, the NCC collected examples of deceptive design by asking for input from the online community Reddit Norway. The NCC described various types of deceptive design, and asked for examples from Reddit users with links and screenshots from Norwegian websites.

Through the campaign, the NCC managed to collect a wide range of examples from different industries. The Reddit thread received more than 500 comments within a few days, and the Reddit users gave very positive feedback regarding these practices being addressed.

The NCC systematically reviewed all the comments, and examined the majority of examples received. The most relevant examples were categorized into distinctive types of deceptive design. In addition, the NCC made some sweeps unrelated to the Reddit campaign to find further examples.



In the second part of the project, the NCC conducted a survey looking into Norwegian consumers' experiences with and attitude towards various types of deceptive design. The NCC showed them 10 different examples of deceptive design, and asked them how often they had experienced them. The respondents were also asked what consequences they had experienced because of deceptive design, and provided open-ended questions where consumers could describe their experiences freely and report particular actors using deceptive design. A similar survey was conducted by the Consumer Policy Research Centre (CPRC) in Australia, which served as the basis for the NCC's methodology.

The survey was conducted by the market research agency YouGov, in their nationally representative panel which consists of 175 000 people. Between August 24th and September 6th 2022, 2008 web interviews were conducted with persons aged 18+. The results are weighted by gender, age and geography in accordance with official demographic numbers.

A limitation to asking consumers directly about their experiences, is that they may have trouble remembering their encounters with deceptive design, and may also be reluctant to report being deceived or manipulated. The results are therefore likely modest compared to the actual situation.

Which legal provisions apply to deceptive design?

In this report, the NCC has examined deceptive designs employed by businesses to influence consumers. There are several laws in Norway who regulate the relation between consumers and businesses, such as the Marketing Control Act,¹⁶ Contract Act¹⁷ (no English version), and the Cancellation Act.¹⁸

The Norwegian laws on consumer rights stem from EU directives. To ensure that the consumer authorities in the EU and the EEA have similar levels of protection, the European Commission publishes guidelines for several of their directives.

The European Commission updated its guidance on the Unfair Commercial Practices Directive (UCPD) in December 2021. The guidance now contains several descriptions to facilitate legal interpretation of the directive on the topic of deceptive designs.¹⁹



There is still very limited case law on deceptive design.²⁰ Therefore, it can be difficult to know where and whether there are legal provisions regulating particular types of deceptive design.

In Spring 2022, the European Commission published a report on unfair commercial practices online, with a particular focus on deceptive design. The report also shows the relation between legal provisions in EU consumer law and particular types of deceptive design.²¹

These legal provisions are applied in Norwegian law as well, but the provisions are spread out over several chapters and laws. An appendix to this report contains the deceptive designs the NCC has examined in relation to the legal provisions in Norway. The overview is based on the European Commission's paper, and is in effect a "translation" from EU laws to Norwegian laws.

It is worth noting that it is **the Norwegian Consumer Authority and the Norwegian Data Protection Authority who are competent authorities** for interpretation of the Marketing Control Act and the General Data Protection Regulation in Norway. The appendix should only be read as an overview of relevant provisions, as well as relevant case law where that exists.



Types of deceptive design

What types of deceptive design did the NCC examine?

False hierarchy



Forced registration



Preselection



Intermediate currency



Roach motel



Trick questions



Confirmshaming



Hidden costs



Countdown timer



Activity messages



The NCC chose **10 types of deceptive design** for the survey, based on examples and consumer advice, as well as the selection criteria listed at the end of the report.

There are **variations of each type of design**, and each type of design can be used for different purposes, such as steering the consumer to pay more money or share more personal data than necessary. The NCC has only illustrated each type of design with one screenshot, and can therefore only capture one way of employing the design. The screenshots are not always identical to the ones used in the survey.

In addition to presenting findings from the survey, the report shows **which legal provisions the NCC considers relevant to the example**. The provisions are not rendered word for word. As some of the laws are only relevant to certain practices (the General Data Protection Regulation is only applicable if the design leads to or involves the processing of personal data), more relevant provisions are included in the appendix.

False hierarchy



Particular information or choices are emphasized through placement, size or colour

Ja, tillat bruk av posisjon

Kanskje senere

In the example, the business **leads the consumer's attention towards the blue box, which allows the service to track the user's location**. The option to decline location tracking receives less space and focus. This design thereby emphasizes the least privacy friendly choice.

False hierarchy exploits consumers' tendency to **reach different conclusions depending on how a choice or information is framed**.

The design can deceive consumers into spending more time or money, or sharing more personal data than intended.



Survey findings

- **64%** often or sometimes experience false hierarchy.
- **42%** find it annoying.
- **31%** find it manipulative.
- **20%** want to stop using the app or website.



Relevant legal provisions?

GDPR art. 25(1): the controller shall implement appropriate technical and organisational measures in order to meet the requirements of the GDPR and protect the rights of data subjects, for example the principles on transparency and fairness.

Preselection



Preselected default option that is in the company's interest

Send billettene som SMS (5,-) ☒

Jeg vil ha informasjon og tilbud fra til min e-post ☐

Tilbake Fortsett

In the example, **the option to receive a ticket as an SMS is preselected**, even though this leads to additional costs for the consumer.

The design exploits the fact that consumers are predisposed to believe that preselected choices are necessary or profitable.

Preselection can thus make consumers accept terms and conditions, newsletters, or more extensive collection of personal data, than what the consumer really wants.



Survey findings

- **56%** often or sometimes experience preselection.
- **44%** find it annoying.
- **24%** want to stop using the app or website.
- **19%** report reduced trust in the business.



Relevant legal provisions?

Marketing Control Act section 11(4): any payment in addition to the remuneration (the product or service) agreed upon for the contractual service, requires the consumer's explicit consent.

Countdown timer



The consumer is presented with a false countdown timer on an opportunity ending soon

Teletubbies Tinky Winky Karnevalsdrakt

~~899,-~~ **629,-**

★★★★★ (32 anmeldelser)

LEGG I HANDLEVOGN

Beregnes å sendes idag hvis du bestiller innen:
00 tim, 10 min & 01 sek

In the example, the business creates unnecessary time pressure to **rush the consumer to purchase the product**, in order to receive same-day shipping. However, the countdown timer is automatically extended after it reaches zero.

The design exploits consumers' fear of missing out on a product, sale or benefit. It is often impossible for the consumer to know whether the timer is real or not.

The design can steer consumers into spending more money than necessary or buying unnecessary products.



Survey findings

- **65%** often or sometimes experience countdown timers.
- **37%** find it annoying.
- **32%** find it manipulative.
- **26%** do not trust the information.



Relevant legal provisions?

Marketing Control Act section 7(1)(b): a commercial practice shall be considered misleading if it contains false information in relation to the quantity of a product, service or offer.

Activity messages



Misleading notice about other consumers' activity

Leverandør: Continental

Type: Sommerdekk

SKU: null

Tilgjengelig: Tilgjengelig

For øyeblikket er det **22** folk ser for øyeblikket på dette produktet

In the example, the business provides false information on the number of persons who are looking at the same product as the consumer. The business **gives the impression that the product may be sold out soon, while in reality the number is randomly generated when the page loads.**

Activity messages can give the consumer a feeling of scarcity and an impression that the product is something that other consumers value. Both of these effects increase the perceived value of the product. It is often impossible to know whether the activity messages are true or false.

The design can steer consumers into spending more money than necessary or buying unnecessary products.



Survey findings

- **61%** often or sometimes experience activity messages.
- **36%** find it annoying.
- **33%** find it manipulative.
- **28%** do not trust the information.



Relevant legal provisions?

Marketing Control Act section 7(1)(b): a commercial practice shall be considered misleading if it contains false information in relation to the quantity of a product, service or offer.

Confirmshaming



Choice framed in a way that makes the consumer feel dishonest or stupid

Skal du virkelig reise uten bagasje? Legg til bagasje nå i stedet for på flyplassen, så sparer du opptil 50 %.

Jeg tar sjansen uten

Legg til

In the example, the business uses a language that can **make the consumer feel worried or stupid** if he or she decides not to pay extra to bring luggage on their trip, by having to click a button that says "I'll take my chances without [luggage]".

The design exploits consumers' tendency to **reach different conclusions depending on how a choice or information is framed**. The framing takes advantage of consumers who might already feel worried about the trip.

Confirmshaming can steer consumers into spending more money or sharing more personal data than intended, or to make the consumer feel bad about terminating a contract, service or subscription.



Survey findings

- **45%** often or sometimes experience confirmshaming.
- **37%** find it annoying.
- **35%** find it manipulative.
- **19%** want to stop using the app or website.



Relevant legal provisions?

Marketing Control Act section 9(2)(b): a commercial practice shall be considered aggressive if it by undue influence, for example through the use of improper language, is likely to significantly impair the consumer's freedom of choice or conduct.

The example is in the NCC's view not clearly covered by relevant legal provisions. It is worth mentioning that BEUC considers confirmshaming a practice that should be banned.²²

Trick questions



Intentional ambiguity to confuse the consumer

nyhetsbrev: Nei, takk! Jeg ønsker ikke å motta månedlige nyhetsbrev med info om liknende produkter, konkurranser, gode tilbud og rabatter. E-postadressen din behandles konfidensielt.

Trykk her for å angi alternativ leveringsadresse!

FORTSETT

In the example, the business has inverted the question for subscribing to their newsletter. The consumer must therefore **actively decline the newsletter by ticking the box**. This is counter-intuitive, especially because consumers are conditioned to the opposite being true.

Trick questions exploit the consumers' habits or uncertainty. If the question is sufficiently confusing, it can also exploit the tendency to assume that the preselected choice is better.

Trick questions can deceive the consumer into accepting terms and conditions or processing of personal data by mistake.



Survey findings

- **52%** often or sometimes experience trick questions.
- **41%** find it annoying.
- **23%** want to stop using the app or website.
- **20%** find it confusing.



Relevant legal provisions?

Marketing Control Act section 8(1): a commercial practice shall be considered misleading if it presents the information that consumers require to be able to make an informed economic decision in an unclear, unintelligible or ambiguous manner.

Marketing Control Act section 15 is also relevant for the practice: it shall be prohibited in the course of trade, without the prior (informed and freely given) consent of the recipient, to direct marketing communications at natural persons.

Hidden Costs



Costs obscured or disclosed late in the transaction

Menu for 1	
	249 NOK
🗑️ 1 +	
<hr/>	
Subtotal	249 NOK
Leveringskostnad	49 NOK
+ Serviceavgift ⓘ	5 NOK
Inkl. mva	43,28 NOK
Tips til budet	0 NOK
10 NOK 20 NOK 30 NOK 40 NOK Annet	
Totalt(Inkl. moms)	303 NOK

In the example, **the business adds additional costs** in the form of a service fee, after the consumer has chosen a product.

The design exploits the tendency to finish something the consumer has already invested time, money or energy in. The design thus affects the consumer more the later in the process the additional costs are introduced.

The design can steer consumers into spending more money than intended.



Survey findings

- **51%** often or sometimes experience hidden costs.
- **37%** find it annoying.
- **32%** find it manipulative.
- **26%** do not trust the information.



Relevant legal provisions?

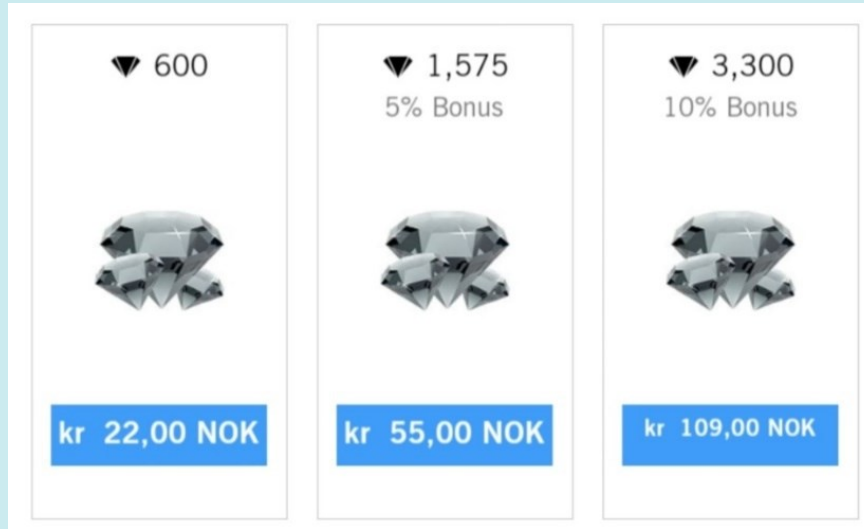
Marketing Control Act section 7(1)(d): a commercial practice shall be considered misleading if it contains false information and is therefore untruthful or is otherwise likely to deceive consumers in relation to the price of the product.

Marketing Control Act section 8(1): a commercial practice shall be considered misleading if it hides material information that consumers require to be able to make an informed economic decision, or if it presents the information in an unsuitable manner. Information about the price is material information.

Intermediate currency



*Purchases in virtual currencies
to obscure real cost*



In the example, the business uses a virtual currency, diamonds, which can be spent to gain in-game advantages or purchase in-game items.

The design disconnects the real price of an item through the intermediate currency. This can make the consumer **spend money in a different way than he or she would when the price is clearly communicated.**

The design can lead to consumers spending more money they wanted. This type of deceptive design is often used in games, including in apps directed toward and used by children.



Survey findings

- **28%** often or sometimes experience intermediate currency. The number is 49% for consumers aged 18-29.
- **28%** find it annoying.
- **21%** want to stop using the app or website.
- **22%** report reduced trust in the business.



Relevant legal provisions?

Marketing Control Act section 8(3): a commercial practice shall be considered misleading if it hides information about price, or present information about price in an unclear, unintelligible or unsuitable manner.

Marketing Control Act section 19: particular care shall be exercised with regard to the impressionability, lack of experience and natural credulity of children when a commercial practice is directed at children.

The Dutch Consumer Authority has recommended stricter rules on this type of design, potentially through a ban.²³



It is more difficult to cancel a service or subscription than signing up for it

Kan vi hjelpe deg med å bytte produkt eller endre noe ved den nåværende planen din?

Vi hjelper deg med å finne den planen som passer best for dine behov. Det er raskt og enkelt å bytte til et nytt produkt eller endre detaljene for den nåværende planen din – og du trenger ikke å avbryte den for å gjøre dette.

Nei takk

Endre planen

In the example, the business forces the consumer to go through many steps to confirm cancellation. The screenshot is in the middle of a long cancellation process, when the consumer must click "No thank you" when asked to swap the subscription product with a different subscription, in order to continue the process. For a more extensive example, see the report «You can log out but you can never leave.»¹³

Roach motels attempt to make the consumer postpone or give up cancellation because of **long and complex processes to cancel**. They often include a variety of other manipulative designs.

Roach motels can lead to the consumer paying for services or subscriptions the consumer does not want and/or is not using.



Survey findings

- **56%** often or sometimes experience roach motel.
- **49%** find it annoying.
- **32%** want to stop using the app or website.
- **28%** report reduced trust in the business.



Relevant legal provisions?

Marketing Control Act section 9(2)(d): in determining whether a commercial practice is aggressive, account shall be taken of onerous or disproportionate non-contractual barriers imposed by the trader where consumers wish to exercise rights under the contract, including rights to terminate a contract.

Forced registration



The consumer is tricked or forced into unnecessary registration

The screenshot shows a checkout interface. At the top, there is a 'Rabattkode:' section with a text input field containing 'Fyll inn rabattkode' and a 'LEGG TIL' button. Below this is a 'TOTALT (inkl. mva)' section showing 'kr 44,-'. At the bottom, there are two options: 'Har du en kundekonto hos oss?' with a 'Logg inn på kontoen din' link and a red 'Logg inn' button, and 'Ny hos oss?' with a 'Lag en kundekonto for å bestille raskere' link and a dark grey 'Lag en konto' button.

In the example, the business has made it **impossible to use a service without signing in or registering an account**, even though making a purchase should not require a user account.

The design exploits consumers' tendency to finish something he or she has already invested time, money or energy in.

The design can steer consumers into sharing more personal data than necessary, both at the point of account creation, and to subsequent data collection which is connected to the user account when the consumer is logged in.



Survey findings

- **68%** often or sometimes experience forced registration.
- **45%** find it annoying.
- **27%** want to stop using the app or website.
- **17%** report reduced trust in the business.



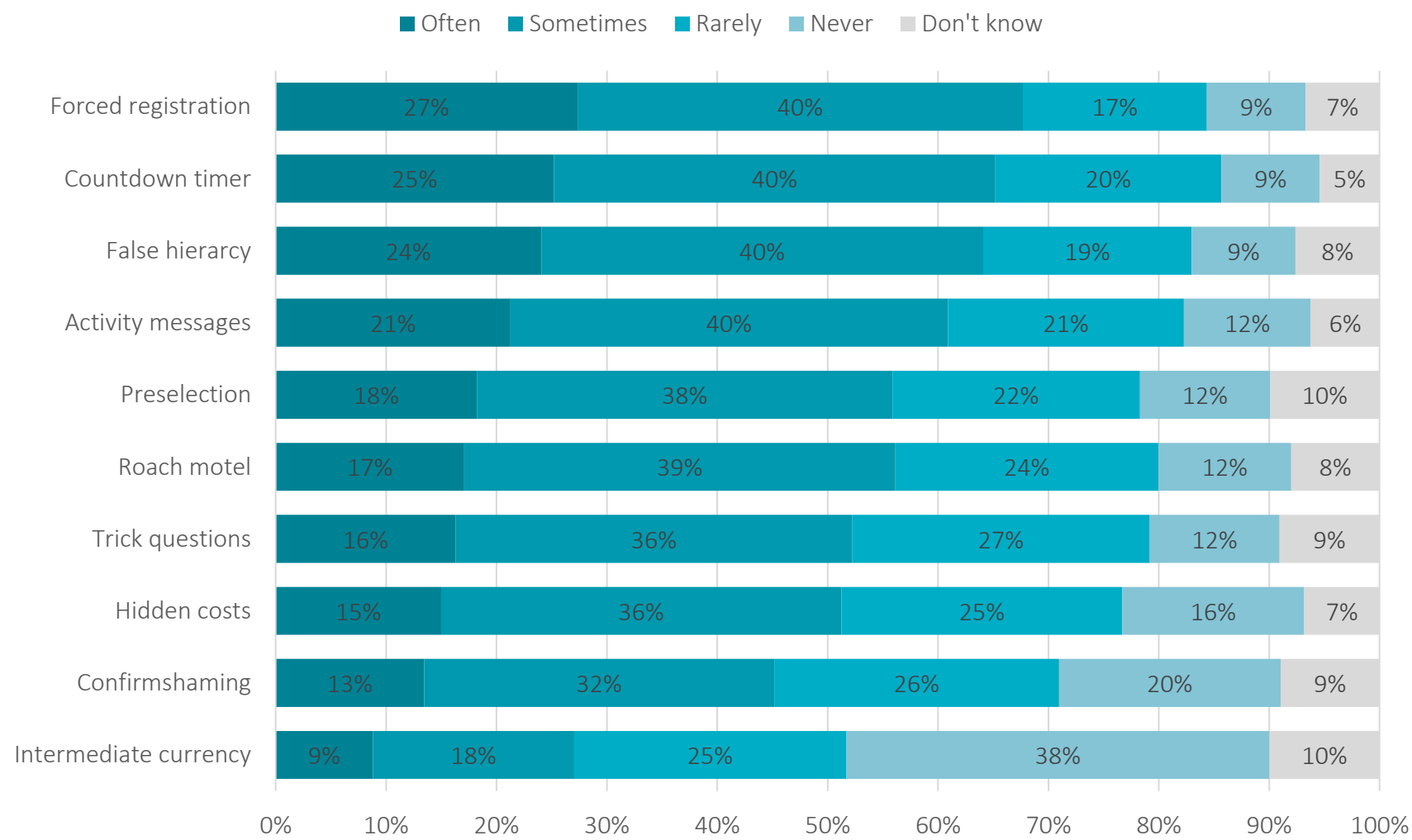
Relevant legal provisions?

Marketing Control Act section 9(1): a commercial practice shall be considered aggressive if it by coercion is likely significantly to impair the freedom of choice or conduct of consumers.

GDPR art. 25(1): the controller shall implement appropriate technical and organisational measures in order to meet the requirements of the GDPR and protect the rights of data subject, for example the principle on data minimisation.

This example is in the NCC's view not clearly covered by current consumer legislation. There is however little case law.

How often do consumers experience various types of deceptive design?



Forced registration is the most commonly experienced type of deceptive design. **Two thirds of consumers experience forced registration often or sometimes.**

Designs such as countdown timers, false hierarchy and activity messages are also reported as very common.

The only type of deceptive design that is more rarely noticed by consumers, is intermediate currency. This type of deceptive design is often seen in video games, and consumers aged 18-29 report experiencing it more often than other age groups.

It is worth noting that there is not necessarily consistency between the extent of particular designs in apps and web pages, and how often consumers remember noticing them. The answers none the less give an indication of which designs are particularly prominent for consumers.



What do consumers think about each type of deceptive design?

	Roach motel	Trick questions	Countdown timer	Hidden costs	Preselection	Activity messages	Forced registration	Confirm-shaming	False hierarchy	Intermediate currency
It is annoying	49 %	41 %	37 %	37 %	44 %	36 %	45 %	37 %	42 %	28 %
It is manipulative	30 %	28 %	32 %	32 %	30 %	33 %	23 %	35 %	31 %	21 %
It makes me want to stop using the website or app	32 %	23 %	18 %	18 %	24 %	17 %	27 %	19 %	20 %	21 %
I don't trust the company	28 %	21 %	21 %	21 %	19 %	19 %	17 %	17 %	15 %	22 %
I don't trust the information	14 %	18 %	26 %	26 %	13 %	28 %	13 %	14 %	12 %	18 %
It is confusing	17 %	20 %	12 %	12 %	13 %	10 %	11 %	14 %	12 %	14 %
It worries me	14 %	8 %	8 %	8 %	10 %	7 %	9 %	10 %	8 %	10 %

Chart interpretation: The chart is sorted according to how many consumers experience various effects of deceptive design (with the most common effects at the top), and which types of deceptive design is associated with the most negative effects (with the most negatively perceived design to the left).

The cells are coloured in accordance with the number of consumers who reported perceiving the designs negatively. A higher number of answers give a darker shade. Multiple answers were possible.

The feelings of being manipulated and annoyed are the most common effects on consumers. Thereafter deceptive design affect consumers' willingness to use apps and websites, and decreases consumer trust in the business.

Out of all the different types of deceptive design, roach motel is associated with the most negative effects. Trick questions are also particularly negatively perceived, with particularly many consumers reporting it as confusing. Countdown timers, hidden costs, and activity messages have a particularly negative impact on consumer trust in the information.

It is evident from the survey that consumers perceive and experience the different types of deceptive designs very negatively.

When a lot of the types of design are experienced often or sometimes by many consumers, it can be assumed that the use of deceptive design has an accumulated negative effect on consumer experiences online.





Consequences of deceptive design

Deceptive design is used in combination

So far, the report has considered each type of deceptive design individually, to identify and describe the particular techniques that are used to steer, deceive or coerce consumers into making choices. It is however **in combination that deceptive design most effectively misleads consumers**.

Instances where deceptive designs can appear in combination includes when consumers:

- buy products online,
- subscribe to services or products,
- try to cancel services or subscriptions, or,
- are asked to accept collection and use of personal data (a prominent example is cookie banners).

The NCC's previous reports have shown how deceptive design can be used in combination to make consumers do what the businesses want.¹¹⁻¹³

While it is difficult to show the accumulated effect of different types of deceptive design in a survey, the NCC asked consumers to answer questions about the consequences they have experienced as a result of deceptive design in general – as opposed to relating it to one specific type of design.

The consequences reported by consumers are shown on the following pages, both from the respondents as a whole, and divided based on age.

Hurry! Only 4 seats left at this price!

4200,-

Upgrade your ticket - save 15%!

☐ I do not want to sign up to the newsletter

Cancellation guarantee

No

YES!

Lost luggage service

No

YES!

Do you really want to risk a non-flexible ticket?

Are you certain you don't want our Support package?

Compensation in case of delay

YES!

No

One-time travel insurance

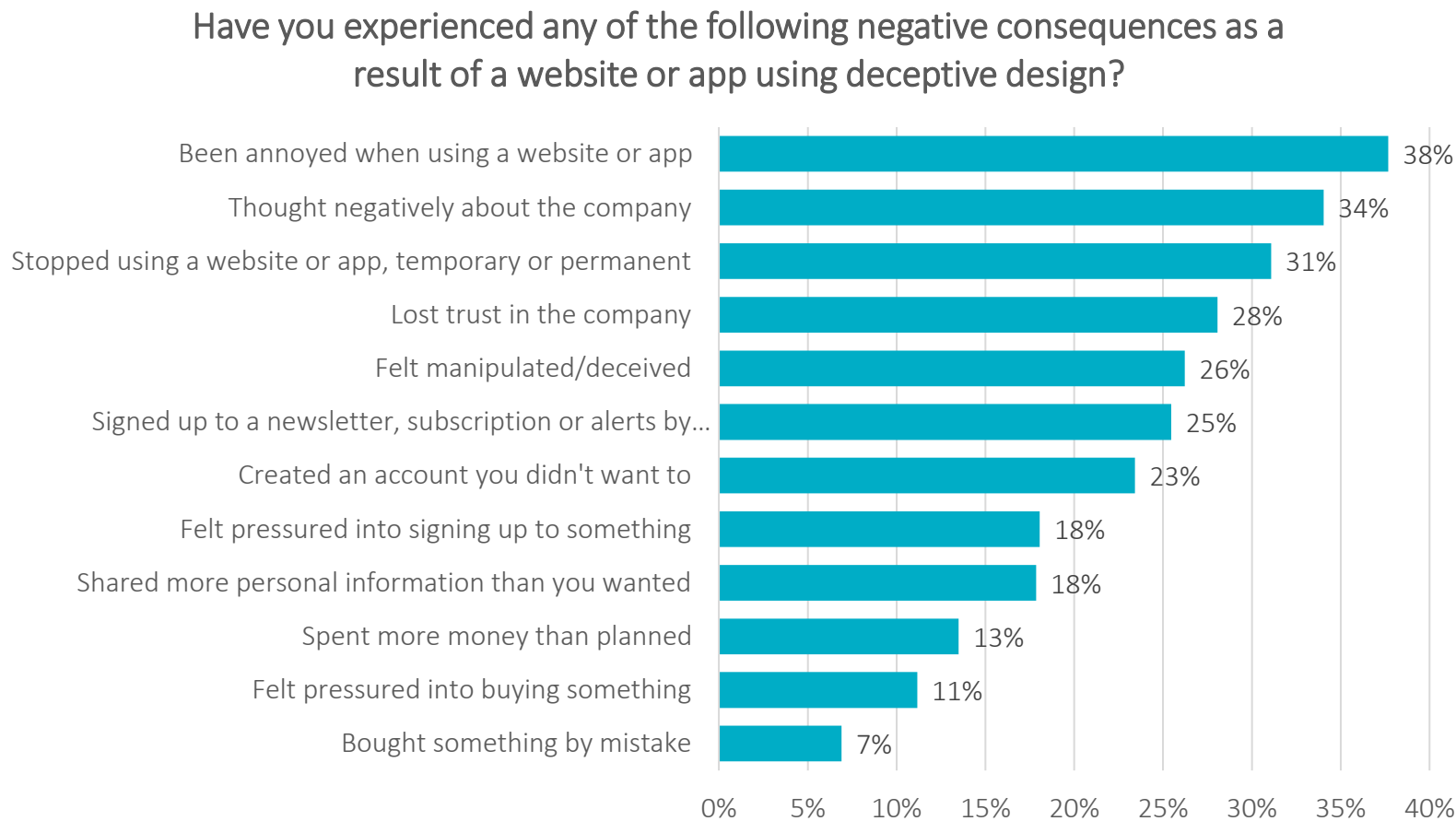
No

YES!

New price including luggage, insurances, support etc

8400,-

Negative consequences of deceptive design



The graph shows the consequences consumers have reported experiencing as a result of deceptive design. The consequences the NCC has mapped affect consumers' emotions and trust, privacy and economy.

8 out of 10 (78%) have experienced **one or more negative consequences** as a result of deceptive design.

Annoyance is the most common consequence, followed by the consumer thinking negatively about or losing trust in the business. **One out of three consumers (31%) have also stopped using a service**, temporarily or permanently.

1 out of 4 (26%) have felt **manipulated/deceived**. About as many consumers have signed up for a newsletter, a subscription or alerts by mistake (25%), or have made an account despite not wanting to (23%). One out of five (18%) have **shared more personal data than they wanted to**.

The NCC suspects that these numbers are a low estimate, as the survey only shows consequences the respondents remembered at the time of completing the survey, have noticed while online, and were willing to disclose.



Costs for businesses

The NCC asked respondents of the survey to give feedback **on which websites and apps they have experienced deceptive design**. The word cloud shows their answers, and illustrates that it is common to experience these designs in different sectors, such as e-commerce, social media, finance, search engines, newspapers, and travel.

The businesses that were most commonly referred to are Wish.com, Norwegian, Facebook, Zalando, and Booking.com. Many of the companies are international, but there are also several that are Norwegian, including Norwegian, VG, Elkjøp, Foodora, SAS and Finn.no.

In the survey, consumers reported that they:

- Lose trust in businesses who use deceptive design (28%).
- Stop using services that employ deceptive design (31%).
- Think negatively about the businesses who use deceptive design (34%).

The use of deceptive design is a type of commercial practice who can lead to short term gains by exploiting consumer vulnerabilities and tricking them. However, the survey shows that deceptive design can have a negative impact on the business in the long term, because it **impacts the trust which is necessary to build a brand over time.**



The word cloud does not include businesses mentioned 3 times or less

Consequences of deceptive design on particular age groups



Ages 18-29

Younger consumers use the internet more frequently, and **notice deceptive design more often than other age groups**. 69% of consumers in this group knew about deceptive design before completing the survey.

They experience **more negative economic consequences** than other groups:

- 21% have spent more money than they planned to (the average is 13%).
- 17% have felt pressured to buy something (the average is 11%).
- 11% have bought something by mistake (the average is 7%).



Ages 30-49

66% of consumers aged 30-49 state that they knew about deceptive design before the survey. This age group uses apps and websites to search for information and for social media more often than other groups.

They experience **more negative consequences related to privacy** than other groups:

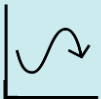
- 22% have shared more personal data than they wanted to (the average is 18%).
- 30% created an account even though they did not want to (the average is 23%).
- 22% have felt pressured to sign up to something, like newsletters, subscriptions, etc. (the average is 18%).



Ages 50+

On average, consumers aged 50+ use the internet less frequently than other age groups, except to read newspapers. 59% knew about deceptive design before the survey. The group also reported experiencing deceptive design less than other groups.

However, this group reports being more annoyed by deceptive design than other groups, when presented with examples. This group also reports most often that deceptive design leads to **reduced trust in the information they are shown and the businesses as a whole**.



Negative consequences for businesses are equally common among all age groups: consumers report reduced trust in the businesses, thinking negatively about businesses, or wanting to stop using apps or websites – temporarily or permanently.

Comments from consumers

In addition to asking how often consumers experience the various types of deceptive design, the survey also addresses how they perceive them and what consequences they have experienced. Last, but not least, the NCC asked the respondents to share their experiences with deceptive design in an open-ended question.

The answers clearly reflect the other findings in the survey: **Nearly all comments reveal a very negative attitude to deceptive design.**

A striking amount of respondents comment that deceptive design should be illegal. There is no doubt that consumers recognise the techniques described in the survey, and perceive them as annoying, unprofessional and unnecessary.

«Easy to give up too much information about yourself.»
Woman 18-29yrs, Vestlandet

«If I feel or suspect I am being manipulated, I cut contact.»
Man 60+, Trøndelag

«If you are not attentive to what they do, you are easily fooled.»
Woman 30-39yrs, Vestlandet

«Many must violate the law when they use countdown timers on their offers. It pisses me off.»
Man 30-39yrs, Viken

«Stop treating people like idiots.»
Man 40-49yrs, Vestlandet

«What companies gain is short term. They lose reputation.»
Woman 40-49yrs, Trøndelag

«The companies using this can't possibly have analysed any consequences beforehand.»
Man, 50-59yrs, Innlandet/Viken

«I think it works against its purpose in the long run.»
Man 40-49yrs, Oslo

«I simply HATE IT!!! Can't companies be honest and explain things SIMPLER!!!»
Woman 50-59yrs, Agder/Sør-Østlandet

«It is often done so we don't notice.»
Man 18-29yrs, Innlandet/Viken



Conclusion

What should businesses do?

In this report, the NCC has looked at deceptive design patterns. Design can, however, also be used to promote good consumer experiences online, to make sure that the consumer reaches his or her goals as quickly as possible («user centered design»).

Deceptive design as a commercial practice has been documented and pointed out for several years by the NCC, as well as by many other organisations. This survey shows that consumers experience **reduced trust in companies that employ deceptive design, and want to stop using their services**. It is not sustainable in the long term for companies to deceive consumers, even though the use of these techniques can involve short term gains.

Even though designers are the ones who create and deploy deceptive designs on a business' website or app, it is likely to be the service owners or business managers who decide the purpose of a commercial practice in a broader sense. In other words, it is a **management responsibility** to ensure that commercial practices do not involve design that negatively affects consumers' autonomy, trust, privacy and economy.



Review processes, websites and services

... to look for examples of deceptive design. This can be particularly helpful when buying off the shelf solutions, e.g. before introducing a newly acquired tool for cookie banners.



Examine industry guidelines

Dutch Consumer Authority [guidelines for consumer-friendly design](#)²⁴
French Data Protection Authority [guidelines for privacy-friendly design](#)²⁵
Access Now's [guide to responsible design](#)²⁶
noyb's [guide to cookie banner design](#)²⁷



Design for trustworthiness:

Do not overwhelm the user with information.
Do not exploit preselection and click flows.
Aim for balance between information and design.

What should regulators do?

At the time of writing, fall 2022, there are several ongoing or recently completed legislative processes regarding deceptive design.²⁸ There are also several appeals for more broad consumer rights regarding deceptive design, including from the Dutch Consumer Authority (ACM)²⁹ and the European consumer organisation BEUC.³⁰ Norwegian policymakers should get involved in international processes to ensure strong consumer rights.

In addition to updating consumer law, **existing rules must be enforced** by the Data Protection Authority and the Consumer Protection Authority. For example, the European Consumer Authorities (CPC) ensured an important victory for consumer rights online when Amazon was required to change its Amazon Prime cancellation process.³¹

The NCC's survey shows that deceptive design is experienced often by many consumers, and that it negatively affects consumers' autonomy, trust, privacy and economy. Effective and broad enforcement is therefore necessary to improve consumer protection online.

While several of the deceptive designs examined in this report might be covered by existing consumer law, more enforcement is also necessary to flesh out the legal landscape. A prerequisite for enforcement is that competent authorities receive sufficient resources.



Enforce applicable laws

Web and app design must be a part of regular enforcement processes. In addition, regulators should perform sweeps, consider the use of automated enforcement tools,³² and consider developing tools for consumers to report deceptive design.



Contribute to legislative processes

Enforcement is an important part of shaping the regulatory landscape, but regulators should also actively participate in legislative processes. Strategic enforcement can also contribute to regulatory development in more urgent or pressing areas.

Consumer advice

This report provides an overview of some types of deceptive design. There are also other resources that show what deceptive design might look like, and that can be used to make consumers more aware of deceptive design, which may be a prerequisite to resist their effects.³³

However, some types of deceptive design are very difficult to resist. For example, forced registration is hard to avoid if there are no viable alternatives on the market. There are also indications that certain types of deceptive design affect consumers even when the consumer is aware of their presence.³⁴

Raising consumer awareness can mitigate some of the negative consequences of deceptive design. Therefore, the NCC has compiled a short list advice to make consumers better equipped to deal with deceptive design.



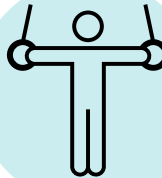
Be aware

Double check what is preselected, and what you are actually paying for during checkout.



Keep calm

If you are nagged by warnings of time running out, or how many people is looking at the same product as yourself, this does not necessarily mean that the product is about to be sold out or unavailable.



Do not give up

It can be difficult to cancel subscriptions – but the cost of one or several unused subscriptions add up over time. So try not to give up!



Finally: you are not being stupid

Techniques used in deceptive design exploit human cognitive biases. So if you are tricked into doing something which is not in your best interest, the problem does not lie with you, but with the businesses.

Summary

Ban it as soon as possible

It should be illegal

Do something about cookies!

This should have been regulated by the government

Should be regulated and fined.

There should be MUCH stricter laws

Deceptive design clearly has negative effects on consumer experiences online.

Deceptive design affects consumers'

- **autonomy and trust**, when consumers are annoyed or feel manipulated,
- **privacy**, when consumers sign up to services by mistake, register accounts despite not wanting to, or share more personal data than they want to, and
- **wallets**, when consumers spend more money than intended, buy something by mistake, or are unable to cancel a subscription.

Consumers aged 18-29 report experiencing more economic consequences than the average in the NCC's survey, while consumers aged 30-49 experience more consequences related to privacy than the average in the NCC's survey.

Deceptive design negatively affects consumers' trust in businesses, and several of the respondents have stopped using apps or websites because of deceptive design.

There are legal provisions that might cover many of these practices. If these laws are not enforced, however, this might reduce consumers' trust in their legal protection online.

In any case businesses should, on their own volition, make sure to use design that does not negatively impact consumers' autonomy, trust, privacy, or wallets.

Sources

¹ The definition builds upon Brignull's definition of «dark patterns». Note that there are also other variations of this term, for instance in the [Digital Services Acts](#) recital 67 and OECD's report [Dark Commercial Practices](#) (2022) p. 16.

² OECD (2022) [Dark Commercial Practices](#) (2022) p. 24.

³ Ibid. pp. 26-27.

⁴ European Commission, [Behavioural study on unfair commercial practices in the digital environment: dark patterns and manipulative personalisation](#) (2022) p. 40.

⁵ Ibid.

⁶ Luguri, Strahilevit, [Shining a Light on Dark Patterns](#) (2021).

⁷ Nouwens, Liccardi, Veale, Karger, Kagal, [Dark Patterns after the GDPR: Scraping Consent Pop-ups and Demonstrating their Influence](#) (2020).

⁸ Luguri, Strahilevit, [Shining a Light on Dark Patterns](#) (2021) p. 5 (p. 47 in the Journal of Legal Analysis, vol. 13, 2021).

⁹ OECD, [Dark Commercial Patterns](#) (2022) p. 24.

¹⁰ European Commission, [Behavioural study on unfair commercial practices in the digital environment: dark patterns and manipulative personalisation](#) (2022) p. 225.

¹¹ The Norwegian Consumer Council, [Deceived by design](#) (2018).

¹² The Norwegian Consumer Council, [Every step you take](#) (2018).

¹³ The Norwegian Consumer Council, [You can log out, but you can never leave](#) (2021).

¹⁴ The Norwegian Consumer Council, [Insert Coin](#) (2022).

¹⁵ Consumer Policy Research Centre, [Duped by Design](#) (2022).

¹⁶ [Act relating to the control of marketing and contract terms and conditions, etc](#), LOV-2009-01-09-2.

¹⁷ [Lov om avslutning av avtaler, om fuldmagt og om ugyldige viljeserklæringer](#), LOV-1918-05-31-4.

¹⁸ [Act relating to the duty of disclosure and the right to cancel distance contracts and off-premises sales](#), LOV-2014-06-20-27.

¹⁹ European Commission, [Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market](#) (2021) p. 99 onwards.

²⁰ European Commission, [Behavioural study on unfair commercial practices in the digital environment: dark patterns and manipulative personalisation](#) (2022) p. 113.

²¹ European Commission, [Behavioural study on unfair commercial practices in the digital environment: dark patterns and manipulative personalisation](#) (2022) p. 61 onwards.

²² BEUC, ["Dark Patterns" and the EU Consumer Law Acquis](#) (2022) p. 8.

²³ ACM, [EU Fitness Check on Digital Fairness – Protecting Consumers in Digital Environments](#) (2022) p. 8-9.

²⁴ ACM, [Protection of the online consumer – Boundaries of online persuasion](#) (2020). Note that the ACM will share an updated version of their guide before 2023. At the time of writing (29.11.2022) the updated version is still not published in English.

²⁵ CNIL, [Co-building user journeys compliant with the GDPR and respectful of privacy](#) (read: 29.11.2022).

²⁶ Access Now, [No more deceptive designs: dos and don'ts for responsible user experience practices](#). (2022)

Sources

²⁷ noyb, [WeComply! Guide for OneTrust](#) (accessed 29.11.2022).

²⁸ See for instance the [Digital Services Act](#) art. 25, the Digital Markets Act art. 13, and the European Commission' ongoing process [Digital fairness – fitness check on EU consumer law](#) (accessed 29.11.2022).

²⁹ ACM, [EU Fitness Check on Digital Fairness – Protecting Consumers in Digital Environments](#) (2022).

³⁰ BEUC ["Dark Patterns" and the EU Consumer Law Acquis](#) (2022) and [EU Consumer Protection 2.0 – Protecting fairness and consumer choice in a digital economy](#) (2022).

³¹ European Commission, [Consumer protection: Amazon Prime changes its cancellation practices to comply with EU consumer rules](#) (accessed 18.10.2022).

³² See for instance noyb's automated searches for cookie banners containing deceptive design ([noyb aims to end «cookie banner terror» and issues more than 500 GDPR complaints](#), accessed 20.11.2022) or Princeton University's use of automated tools to find deceptive design ([Dark Patterns at Scale: Findings from a Crawl of 11K Shopping Websites](#), accessed 29.11.2022).

³³ See for instance [www.deceptive.design](#) (accessed 29.11.2022).

³⁴ OECD, [Dark Commercial Patterns](#) (2022) p. 23.

³⁵ Europakommisjonen, [Behavioural study on unfair commercial practices in the digital environment: dark patterns and manipulative personalisation](#) (2022) p. 36.

Selection criteria for choice of design

1. Most used

- The selection is based on findings from the EU Commission report on unfair commercial practices in the digital environment,⁴ because the EU guarantees a selection that is relevant in a European setting.
- This was a selection criteria because it can be assumed that more prevalence means more consumers are affected.

2. All six criteria from EU taxonomy³⁵ should be included

- The EU taxonomy has similarities with the structure of the Unfair Commercial Practices Directive, and is therefore well suited as a starting point for a report on deceptive design and associated legal provisions.
- The use of the EU Commission taxonomy provides a good foundation for comparison if other consumer organisations within the EU wish to conduct similar research.

3. It should be simple for consumers to recognise and understand the examples in a survey

- It is easier for consumers to recognise illustrations than descriptions. The survey format demanded that it was possible to find simple and understandable illustrations on each type of deceptive design.

4. Strategic choices for further work in the Norwegian Consumer Council

- Subjective assessment, where certain design types were given lower or higher priority based on previous and upcoming work (such as the report on lootboxes).

Gathering examples

- The NCC created a short description of various deceptive design techniques, and asked the users of the online community Reddit for examples from Norwegian companies. The post shown on the right was shared to r/norge.
- The campaign was conducted June 28th 2022, and three employees from the Norwegian Consumer Council (NCC) answered comments and input in realtime.
- The NCC got a lot of attention regarding the post, and ended up with several hundred comments and suggestions. Many of these named companies they believed used deceptive design.
- The input was followed up by the NCC, which investigated the examples given and selected the most suitable ones.
- In addition, the NCC has examined several of the named companies from the survey itself, to look for various types of deceptive designs, and made some general web searches.

