

[NO] The Norwegian Consumer Purchase Act and Digital Online Services

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The Norwegian Ministry of Justice recently released a White Paper with proposed amendments to the Norwegian Consumer Purchase Act. Enacted in 2002, the Consumer Purchase Act establishes a relatively strong consumer protection scheme that *inter alia* includes mandatory regulation of several aspects of such purchases, e.g. delivery, defects, delay, sanctions and remedies.

The traditional definition of a “purchase” in Norwegian law is confined to the acquisition of physical objects. Against this background, the Consumer Purchase Act clearly applies to physical objects purchased online. On the other hand, to include network-based digital deliveries would mean abandoning the traditional definition of a “purchase”. Such an expansion was in fact considered during the initial legislative process, but it was rejected because neither the need to include such services under the Act nor the eventual need for specialised rules had been sufficiently assessed. During the Parliamentary handling of the Act, members of the responsible Parliamentary Committee expressed their desire for a further assessment of the matter. It was in this context that a written expert opinion was commissioned. Based on the expert opinion and the comments it generated during a subsequent public hearing round, the current White Paper re-assesses the question of an expansion of the Act. However, once again the Ministry refrains from proposing such an expansion.

In its reasoning for not wanting to expand the scope of the Act, the Ministry commences with the statement that, although unable to invoke the Consumer Purchase Act itself, buyers of digital download services nevertheless may invoke unwritten principles of consumer protection law. Based on an assessment of market statistics, the Ministry further concludes that there are currently no signs indicating that the actual level of consumer protection is insufficient in such transactions. The Ministry also underlines another unsolved dilemma: On the one hand, digital online services should be regulated as a whole; on the other, the Consumer Purchase Act would not be the adequate instrument for regulating online streaming services (being fundamentally different from a classical purchase). Additionally, the Ministry points to the dangers of prematurely regulating a developing market and also to the disadvantages in being the first State to regulate a matter of international dimensions.

