

International and National Consumer Protection in the Electronic

Environment –Algerian system-

¹Dr. Attar Nassima,

¹University Center of Maghnia, Algérie

n.attar@cu-maghnia.dz

²Dr. Kara terki Ilham,

²University Center of Maghnia, Algérie

i.karaterki@cu-maghnia.dz

³Dr.Derrar Abdelhadi,

³University of Tlemcen, Algérie

Abdelhadi.derrar@univ-tlemcen.dz

⁴Dr. Khirdja Miloud,

⁴University of El-Oued, Algérie

khirdja-miloud@univ-eloued.dz

Submitted: 20/04/2025

Accepted 03/05/2025

Published 15/07/2025

Abstract

Consumer rights, particularly those of electronic consumers, are among the most significant rights that experts have focused on, as they are closely linked to societal development and represent a key requirement of the modern era. This is especially relevant in light of the information revolution that has swept the world and the recent global circumstances brought about by the COVID-19 pandemic, which significantly accelerated the expansion of e-commerce.

Within the framework of the digital economy, the need for enhanced safety and security measures for electronic consumers has become increasingly evident. This requires a thorough examination of the potential risks they may face in digital transactions and an exploration of effective protective measures. Many legal systems worldwide have adopted this approach, aiming to establish the necessary legal protection for electronic consumers, given their lack of sufficient and essential information regarding the goods or services offered to them online.

Keywords:

E-commerce, electronic consumer, digital goods, digital services, legal protection.

Introduction

The term e-commerce has become widely used, generally referring to conducting transactions, deals, and commercial exchanges through modern electronic means and information networks¹. The widespread practice of e-commerce has drawn attention on multiple levels due to the advantages and benefits it offers.

E-commerce enables merchants, producers, and business partners to avoid the hassle of traveling from one country to another to meet their clients and associates. It allows them to save time, money, and effort in promoting their products and services. Likewise, consumers can easily obtain what they need without physical movement or using traditional cash payments. All they require is a computer and an internet connection to fulfil their purchasing desires or access any service they seek.

The core idea of e-commerce revolves around bringing together sellers and consumers in virtual marketplaces or shopping centres, providing an opportunity to browse, select, and purchase products or services that meet consumer needs²

The rapid and significant advancement of electronic technology has played a crucial role in connecting the world through electronic networks, transforming it into a highly interconnected system. However, this network is accompanied by waves of unexpected breaches and violations, making it an unsafe virtual environment. As a result, various forms of cybercrime, fraud, and deception have emerged.

This situation necessitates efforts to develop mechanisms and strategies to mitigate these risks. The electronic consumer requires both technical and legal protection measures to ensure a secure environment for electronic transactions. This can be achieved by implementing mechanisms aimed at safeguarding consumers and introducing new protective methods that go beyond traditional legal frameworks.

First: Risks of Electronic Contracting

Electronic contracting involves numerous risks, some of which fall under threats to consumer rights requiring civil protection, while others constitute crimes where the consumer is the victim and require criminal protection³. The following sections detail these risks:

A - Civil Risks

Among the risks that electronic consumers may face are those originating from the merchant, who represents the other party in the contractual relationship. Merchants often engage in fraudulent, deceptive, or misleading practices against consumers. Additionally, consumers may

¹Hadi Muslim Al-Bashkani, *The Legal Framework of E-Commerce: A Comparative Study*, Dar Al-Kutub Al-Qanouniyya, Egypt, 2009, p. 25.

²Jalloul Douwaji Belhoul, **Legal Protection of the Consumer in the Field of E-Commerce**, Master's Thesis, Advanced Private Law, Faculty of Law and Political Science, Abou Bekr Belkaid University, Tlemcen, p. 10.

³Zouzou Houda, *Mechanisms for Protecting Consumers from the Risks of Electronic Contracting in Algerian Legislation*, *Journal of Rights and Freedoms*, No. 4, Batna, 2017, p. 324.

encounter threats from third parties, such as electronic network breaches. There is also the issue of advertising and marketing within contracts, which may mislead consumers into making purchases under false impressions⁴. Furthermore, the electronic consumer is the weaker party in the transaction, as they are constantly in need of products and services while lacking sufficient information about their quality and pricing. Their technical expertise is also generally inferior to that of the seller. This, combined with their unawareness of the deceptive practices merchants may employ to mislead consumers and cause severe financial harm, underscores the need for civil compensation mechanisms.

B - Criminal Risks

These risks primarily stem from the possibility of third parties hacking electronic transactions, thereby gaining access to the consumer's personal data and information. Such breaches can lead to significant harm, including the theft of funds from their accounts, the misuse of their data for criminal activities, or even remote control of their electronic devices. Additionally, misleading advertisements may deceive consumers, leading them to make costly mistakes and suffer significant financial losses. As a result, consumers may become victims of fraud, scams, and theft, necessitating criminal protection to safeguard their rights.

Second: Justifications for Electronic Consumer Protection

The reality is that the challenges posed by contracting through electronic means, digital platforms, and communication networks—both during and after the conclusion of commercial transactions—have led to an economic imbalance between the consumer and the professional or merchant. This has prompted legislators and legal scholars to establish legal protections for consumers to safeguard their rights, particularly given their lack of information and technical expertise, as well as the inadequacy of general legal rules to keep pace with technological advancements.

First: The Rapid and Modern Development of the Internet

Numerous technologies and tools have contributed to the evolution of the internet, making it one of the most advanced technological services. These innovations rely on consumer interaction with computers, enabling easy access to a wide range of goods and services. This ongoing technological progress is a scientific reality that continues to evolve. However, this development also has drawbacks, particularly in the legal classification of e-commerce contracts over the internet, where consumers may not be able to inspect the product physically or meet the supplier as they would in a traditional contract.

Second: The Consumer's Need for Electronic Services

The expansion of the internet has increased interest in commercial websites offering various services, including real estate, tourism, and banking. Consumers' growing reliance on electronic services stems from their ability to provide high-quality products and services at

⁴Abdel Fattah Hegazy, E-Commerce and Its Legal Protection, Dar Al-Fikr Al-Jamii, Alexandria, 2004, p. 10.

competitive prices. The abundance of e-commerce platforms and rising competition among them have resulted in better offerings for consumers⁵.

Third: The Consumer's Lack of Digital Literacy

A consumer's lack of digital literacy and technological knowledge hinders their ability to engage thoughtfully with commercial websites. As a result, they may act without fully understanding their rights or how to protect them, making it necessary to establish protective regulations for consumers. In practice, commercial websites often prevent consumers from fully grasping the true nature of their contractual obligations. For instance, in an electronic sales contract, the essential terms and conditions may be present, but they are often concealed behind key navigation links, making them less transparent to the consumer.

Given the growing number of consumers and the increasing need for their protection, the concept of consumer protection and its mechanisms have evolved significantly in this era. Government intervention in consumer affairs is no longer limited to ensuring the availability of goods and services, preventing monopolies, and regulating prices. It has expanded to encompass various measures and regulations aimed at safeguarding electronic consumers.

This protection extends from the consumer goods or services themselves—ensuring their quality and compliance with standards—to the contracts through which they are obtained, and finally to the guarantees that ensure these goods function as intended and serve their purpose when used⁶.

Fourth: The Shortcomings of General Legal Rules in Addressing the Development of the Information Network

To begin with, it can be said that traditional contract law does not explicitly recognize the concept of the electronic consumer. However, it does protect one party in contractual relationships by default rather than by designation. Consequently, consumer protection is provided whenever the consumer happens to fall within the general protective frameworks established by civil laws in countries such as France and Algeria.

Third: Legal Protection of the Electronic Consumer at the International and Regional Levels

A - Protection of the Electronic Consumer at the International Level

Since electronic transactions take place over an international internet network that transcends national borders, various measures have been developed to protect electronic consumers at the global level. Consumers are generally the weaker party, whereas professional traders hold a stronger position. Several international organizations have been involved in consumer protection efforts, including the International Organization of Consumers, the European

⁵Abdallah Theeb Abdallah Mahmoud, Consumer Protection in Electronic Contracting – A Comparative Study, Master's Thesis, Private Law Specialization, Graduate Studies Faculty, An-Najah National University, Palestine, 2009, p. 31.

⁶Ghassan Rabah, The New Consumer Protection Law: Principles and Mechanisms – A Comparative Study, 1st edition, Zein Legal Publications, Beirut, 2006, p. 16.

Consumer Protection Directive, and the Organization for Economic Cooperation and Development (OECD).

First: Consumer Protection at the Level of the International Consumer Organization

International efforts in consumer protection have intensified, especially with the increasing challenges faced by consumers. This significantly contributed to the emergence of the International Consumer Organization, which was established in 1960 by five consumer organizations from the United States, Belgium, the United Kingdom, the Netherlands, and Australia. By 1995, the number of member countries had exceeded one hundred, with more than two hundred members.

The conditions for countries and organizations to join the organization include:

- Having no commercial objectives.
- Maintaining complete independence.
- Not resorting to advertising in their publications or magazines.

Among the objectives adopted by the International Consumer Organization:

- Supporting the establishment of consumer protection associations worldwide.
- Acting on behalf of consumers globally to ensure their rights to food, drinking water, and essential services.
- Enhancing international cooperation by conducting comparative analyses of products and services and exchanging test results and expertise.
- Improving product standards, services, and consumer education programs worldwide.
- Establishing the International Consumer Organization as a platform for exchanging information, publications, and periodicals related to consumer protection.⁷

Second: Electronic Consumer Protection at the European Union Level

Several regional efforts have been made to curb computer and internet-related crimes, alongside international initiatives led by the United Nations. Since electronic contracts are often conducted at an international level, there is a need to implement suitable legal measures for global electronic consumer protection⁸. In this regard, the European Council has issued several directives, including one stating that, for international consumer protection, international conferences on electronic commercial transactions should be held, especially for those taking place outside Europe. Another directive addresses the rules determining the most appropriate court for consumer cases, particularly within the Rome Convention issued on May 19, 1980.

Directive 97/07, issued on May 20, 1997, is considered the most significant directive at the European level. It establishes rules for protecting consumers in distance contracts by requiring

⁷Arzeki Zoubir, Consumer Protection in the Context of Free Competition, Master's Thesis, Professional Liability Specialization, Mouloud Mammeri University, Tizi Ouzou, 2011, p. 24.

⁸Khmeckhem Mohamed, *Criminal Protection of the Consumer in E-Commerce Contracts – A Comparative Study*, Doctoral Dissertation, Public Law Specialization, Faculty of Law and Political Science, Abou Bekr Belkaid University, Tlemcen, 2017, p. 131.

suppliers and professionals to provide essential information about the product or service, as well as details on payment, delivery, and execution. Additionally, it grants consumers the right to withdraw from a contract. Article 7 states:

"In contracts concluded remotely via a remote communication technique, the consumer has the right to withdraw from the contract within seven working days, starting from the date of delivery for goods and from the contract signing date for services, without penalty, fine, or the need to provide reasons."⁹

As the Budapest Convention on Cybercrime is considered one of the key achievements in this field, the convention was drafted by the Council of Europe in cooperation with Canada, Japan, South Africa, and the United States, and was opened for signature in Budapest in 2001, entering into force in 2004.¹⁰

As the European Union adopted on June 26, 2002, a directive concerning the remote marketing of financial services, which aims to provide a secure framework for electronic commerce and communications, specifically addressing the processing of consumers' personal data and the protection of their privacy in electronic communications.¹¹

Third: Protection of the Electronic Consumer within the Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) played a role in drafting guidelines to ensure consumer protection online on December 9, 1999, highlighting the importance of cooperation between governments, businesses, and consumers at both national and international levels.

Among the directives recommended by the OECD for consumer protection in e-commerce contracts are the following:

- There should be a certain level of protection for consumers engaging in e-commerce or remote sales transactions.
- Information must be clear to the consumer, in a language they understand, and should include the identity of the company conducting electronic commercial activities, as well as the type of goods and services it offers.
- Comprehensive details about the supplier's offer should be provided, including pricing, payment methods, warranties, and product delivery methods.
- Obtaining explicit consent from the electronic consumer.
- Giving the electronic consumer a reasonable period to consider completing or withdrawing from the contract.
- Defining the applicable law governing the electronic contract and the competent courts.
- Establishing means to document electronic transactions between the merchant and the consumer.

⁹Nabil Mohammed Ahmed Subeih, Consumer Protection in Electronic Contracts, Journal of Law, Kuwait University, Issue 2, Volume 32, July 2008, p. 168.

¹⁰Khmeckhem Mohamed, Op. cit., p. 131.

¹¹Mohammed Saeed Ahmed Ismail, Legal Protection Methods for E-Commerce Transactions (A Comparative Study), Halabi Publications, Syria, 2009, p. 376.

- Developing international cooperation between countries and relevant international organizations to protect consumers.

Fourth: The Guiding Principles Adopted by the United Nations for Consumer Protection

The United Nations General Assembly, in its Resolution No. 39/248 issued on April 9, 1985, approved general global principles for consumer rights and recommended that countries adopt them. These principles are:

1. The right to health and safety when using products normally. This includes protection against products and services that are harmful to health or life, as well as the right to live in a healthy environment.
2. The right to access accurate and sufficient information about products. Consumers should be provided with the necessary and adequate data on goods and services, enabling them to make a free and informed choice while being protected from fraud and misleading advertisements.
3. The right to freely choose products that meet quality standards. Consumers should have the ability to choose from products and services offered at competitive prices while ensuring an adequate level of quality in accordance with global standards. The state is responsible for enabling consumers to exercise their fundamental right to free choice.
4. The right to personal dignity. Consumers have the right to access essential goods and services necessary for their livelihood in a way that preserves their dignity. This also includes ensuring fair distribution of essential goods and services and the right to live in a clean and healthy environment.
5. The right to obtain knowledge about the protection of their rights and legitimate interests. Consumers should have the right to acquire the knowledge and skills necessary for making informed choices about products and services while understanding their fundamental rights and responsibilities.
6. The right to participate in institutions and associations related to consumer protection. Consumers should be able to present their interests to relevant consumer protection organizations and institutions involved in implementing government policies to improve goods and services and ensure their safety.
7. The right to file legal claims in case of consumer rights violations. This should be facilitated through fast, simple, and cost-effective procedures.
8. The right to fair compensation for damages suffered. Consumers should be entitled to just compensation for harm resulting from purchasing or using defective goods or substandard services.

From the above, it can be concluded that these principles aim to take into account the social and economic conditions of consumers, ensuring them a dignified life while considering their interests and needs at both the national and international levels. This is achieved through legislation and a set of preventive measures that guarantee both prior and subsequent consumer protection, allowing them to fulfill their legitimate consumer desires without suffering any harm of any kind. In this regard, the Algerian legislator, in Law No. 09-03, amended by Law No. 18-09, has adhered to the principles established by the United Nations General Assembly from the first to the sixth chapter¹².

B. Consumer Protection at the National Level

As for consumer protection in national laws, specific laws have been issued to protect consumers in general, such as in the French and Algerian legal systems. Meanwhile, other legislations have provided specific protection for consumers in the field of electronic commerce and have enacted special laws regulating electronic trade exchanges. Among these are the laws of the Emirate of Dubai, Singapore, the Grand Duchy of Luxembourg, and Jordan's E-Commerce Law. One of the most notable Arab legislations in this regard is the Tunisian Law No. 83 of 2000 on electronic exchanges and commerce, which includes specific provisions for consumer protection in electronic commercial transactions.

Article 25 of this law obliges the seller to provide the consumer with a clear and understandable method before concluding the contract, as well as information and data specifying the trader's identity, a full description of the various stages of the transaction, and details about the product or service being dealt with. It also requires an explanation of the electronic payment method and the delivery process. Moreover, it grants the consumer the right to withdraw from the purchase and cancel the contract, ensuring that information is provided electronically at various stages of the electronic transaction. Additionally, it provides protection in cases where electronic payment methods are used.

Regarding Algerian legislation, Law No. 09-03, as amended by Law No. 18-09 on consumer protection and fraud suppression¹³, includes key consumer rights such as: the right to safety from health hazards, the right to receive products that meet their legitimate desires, the right to warranties and after-sales service, the right to be informed about all relevant product details, and the right of consumer protection associations to engage in litigation.

Conclusion

No one can deny that e-commerce has played a significant role in solving many of the issues faced by traditional commerce. It has introduced its own unique products and created a promotional environment characterized by speed, which is one of the most essential requirements of commerce in general. E-commerce has also facilitated transactions among those engaged in this type of trade.

¹²Jalloul Douwaji Belhoul, Previously Cited Reference, p. 27.

¹³Law No. 18-09 of Ramadan 25, 1439, corresponding to June 10, 2018, amending and supplementing Law No. 09-03 of Safar 29.

What concerns us most in the context of e-commerce is the electronic consumer, who is essentially the same as the traditional consumer in conventional commerce. As such, they are entitled to the same protection guarantees as traditional consumers while also requiring a specific type of protection due to the nature of electronic commerce. This necessity arises from the digital environment in which transactions take place, making it crucial to provide consumers with adequate and accurate assurances to ensure the legitimacy of electronic commercial transactions.

Based on this, the following recommendations can be made:

- The need to promote awareness of electronic shopping.
- Encouraging electronic consumers to engage in digital transactions by providing the necessary infrastructure and platforms to support this type of commerce.
- Improving the quality of electronic services with state intervention and support.
- Adopting and learning from the successful experiences of other countries in this field.

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LEX LOCALIS-JOURNAL OF LOCAL SELF-GOVERNMENT

ISSN:1581-5374 E-

ISSN:1855-363X VOL. 23,

No. 10(2025)

