

## **Penal Protection for the Consumer in E-Commerce Contracts by the Provisions of Jordanian Legislation**

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### **Abstract**

The present study aimed to address aspects of consumer protection in e-commerce contracts according to Jordanian law, given the severe risks involved in the stages of concluding and implementing electronic agreements, and to demonstrate the mechanisms and aspects of protection that ensure a balance between the parties to consumer relations, thus contributing to removing the risk from the consumer and avoiding damages if they occur. The researcher followed the descriptive analytical approach in his study by listing the relevant legal texts and analyzing them. The study concluded with several results, most notably: that the consumer's right to information and insight is achieved through identifying the provider's personality, describing the product or service subject of the contract, and indicating the basic features of the commodity or service. The agreement, and in its absence, the consumer may fall victim to fraud and imitation. Likewise, the consumer's right when concluding the electronic contract, the seller's obligation to deliver the comparable sale, and the consumer's right to withdraw.

**Keywords:** Electronic consumer, electronic contracts, penal protection, consumer, right of recourse.

### **Introduction**

There is no doubt that as a result of the technological developments that appeared in the middle of the twentieth century, and the enormity that led to it in production and distribution, and the accompanying spread of the phenomenon of online shopping as a result of people's needs and desire to obtain products quickly

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and conveniently, and the fact that purchases are made through the Internet Modern and many people contract without knowing its risks and problems compared to traditional trade (Husayn, 2017; Al-Billeh & Abu Issa, 2022), the problem of how to protect the consumer in e-commerce contracts has emerged, and these developments and their accompanying issues have imposed themselves on the legislation of most countries of the world, and most countries have tended to search for a statement of aspects and means of consumer protection In general (Al-Rifai, 1994), and the consumer in the case of electronic contracts in particular, and the importance of providing security to the consumer lies in electronic transactions and contracts in which the contract is remote, and the product is not the subject of electronic contracting in the hands of the consumer (Al-Jaf, 2017; AL-Hammouri et al., 2023a; Al-Billeh, 2023a).

Mechanisms to restore balance in consumer relations in a way that removes harm and raises the risk to the consumer, especially since electronic transactions and so on. The conclusion of electronic contracts is not only at the national level, but that electronic transactions extend primarily to people in different countries through the Internet, which knows no borders and extends to all countries of the world (Hegazy, 2006; Al-Hammouri & Al-Billeh, 2023; Al-Billeh, 2024a).

The study aimed to explain the aspects of electronic consumer protection and to indicate the extent of this protection before and after the conclusion of the electronic contract.

The legal protection of the consumer, whether in the pre-contracting stage, in the stage of concluding the electronic contract, or in the stage of implementing the electronic contract, is critical because the consumer can be a weak party, in that case, he may necessarily need a certain commodity, and therefore subject to extraordinary and unfair conditions, the selling company is the strong party in this contract in exchange for the consumer (Al-Hijazi, 2016; Al-Billeh & Al-Hammouri, 2023).

In addition to the above, the consumer needs legal protection because of the risks, lack of security, and many problems through the electronic network. Consumer protection in electronic contracting is one of the essential topics that need research and detail due to the novelty of this topic and the scientific development that accompanies electronic contracting so that the world has become a market Large inside a small computer screen through which it is possible to pass to the desired sites and view the terms of purchase, contract, and access to the specific commodity or service (Hussein, 2017; Al-Billeh & Abu Issa, 2023a; AL-KHALAILEH et al., 2023; Al-Khawajah et al., 2023).

Accordingly, the problem of the study lies in explaining the issues facing the consumer in electronic contracting in its various stages. In this study, the following questions will be answered: What are the aspects of consumer protection? Has the Jordanian legislator provided a legal scope for consumer protection in e-commerce contracts? Is the electronic contract between the consumer and the provider considered a contract of compliance? What are the consumer's rights in all stages of electronic contracting?

### **Methodology**

The study relied on the descriptive and analytical approach by describing the situation, citing the relevant legal texts, analyzing them, and applying them to reality.

Given the tremendous development in the field of concluding electronic contracts, in which the consumer is one of the main parties, and given what the world has witnessed resorting to contracting via the Internet, the impact of the Corona pandemic, the need to purchase goods, products or services that the consumer needs, and the fact that this type of contract is surrounded by many methods Deception, fraud and circumvention when contracting electronically, in addition to the poor quality of goods and services and their high prices, and the fact that the consumer is the least experienced and knowledgeable party in electronic commercial transactions (Mahmoud, 2002).

### **Online Consumer Protection**

The need to provide adequate legal protection to the consumer when dealing with others in all aspects of life is agreed upon to avoid him falling into fraud and misleading, strengthening multi-faceted legal relations. The well-known methods among the present or the teleological, or using innovative means of communication invented by man, have become linked to all parts of the globe, so the distances and spatial and temporal barriers have been shortened (Abdullah, 2009; Al-Billeh, 2022a; AL-Hammouri et al., 2023b).

These means have become tangible to conclude many transactions using them and establish actions through them. The most important is the Internet, which transformed from merely exchanging data via e-mail to completing commercial transactions, as it strongly imposed (Bayoumi, 2004; Al-Billeh, 2022b; AL-Hammouri et al., 2023c; Al-Billeh, 2023b).

In most electronic contracts, the consumer is the weak party, so considerations of justice require that many contracts in which there is no negotiation or bargaining be considered compliance contracts, where the consumer has the right to amend or nullify arbitrary conditions and give the consumer many

rights is also the section of justice and the protection of consumer satisfaction were met. In this topic, it was divided into three demands; the first requirement is civil protection via the Internet, the second requirement is the consumer's right to combat arbitrary conditions and the legal and commercial guarantees in the third requirement (Al-Haija, 2017; Al-Billeh, 2022c; Khashashneh et al., 2023; Al-Billeh & Abu Issa, 2023b).

### **Civil protection for the consumer via the Internet**

Civil protection is general protection for every right, whatever it is, and legal protection is established for all requests and has been guaranteed by all laws. Among the most critical issues in the civil protection of the electronic consumer are the following:

#### **First: Consumer Right to Information**

1. It is agreed that misleading advertising or media would deceive the consumer or could lead to his deception, and the consumer's right to prior information is an essential right in light of the tremendous development witnessed by the world in light of economic openness, and the aim is to inform the consumer of the product data subject to the contract in order to educate him and so that he can achieve a balance between his needs and capabilities while achieving what is possible of self and material protection, and when empowering the consumer and informing him of the necessary information about goods and products that make him submit to contracting through electronic commerce while he is aware of what he is doing (Bayoumi, 2004), as it is possible through media and publicity alerting the consumer and informing him of the details of the goods and products and explaining to him the advantages available in some commodities over others, and in the light of that he turns to the acquisition of a specific product. It is related to his protection and enables him to refer to it before concluding the contract. Article (3) of the Jordanian Consumer Protection Law stipulates (1) the Jordanian Consumer Protection Law No. 2017, provided that the consumer has the right to:

1. Obtaining goods or services that achieve their purpose without causing any harm to his interests or health when using these goods or services typically or expected.

2. Obtaining, transparently, complete and correct information about the commodity or service he is buying and the conditions of sale for it.

3. Obtaining complete and transparent information before completing the purchase process about the obligations incurred by the supplier to the supplier and the supplier's rights vis-à-vis the consumer.

4. Choosing the commodity or service he wishes to purchase without unjustified pressure or restriction.

5. Obtaining proof of his purchase of the commodity or service and the basic details of the purchase.

6. Filing lawsuits for anything that would prejudice, harm or restrict his rights, including requiring fair compensation for the damages incurred.

7. Obtain complete and correct information about the provider and its address.

Article (8) of the same law states:

(a) It is prohibited to publish any advertisement that misleads the consumer or makes him fall into error regarding the commodity or service, and the ad is considered misleading if it includes false, incorrect or incomplete data or information related to the following:

1. The nature, quality, composition, essential characteristics, components, or quantity of the commodity.

2. The commodity's source, weight, size, manufacturing method, expiry date, conditions of use, or precautions for such use.

3. The type of service, the agreed-upon place for providing it, the precautions for receiving it, or its essential characteristics.

4. The terms of the contract, the amount of the total price and the method of its payment.

5. Obligations of the advertiser.

6. The identity and qualifications of the service provider, if they are considered at the time of contracting.

Some French legal scholars believe that the right to information and publicity must deal with three main elements:

1. Statement and clarification of the characteristics of the goods or services offered, since the characteristics and characteristics of the goods are the main reason for the consumer to conclude the contract, and in the event of their absence, the consumer may fall victim to fraud or fraud and counterfeiting (Al-Hijazi, 2016; Al-Billeh, 2022d).

2. Statement and clarification of the price of the offered goods and services.

3. Statement and clarification of essential data, including the seller's obligation to guarantee hidden defects before the consumer and the impermissibility of agreeing to exemption from this condition, to protect the consumer who does not know the truth about the hidden defects that the producer or merchant has endeavored to hide.

From the preceding, we conclude that in electronic commerce contracts, the contractor with the consumer is obligated to state and clarify the essential details of the products, goods, and services that he offers, and he is obligated to

mention these critical data that enable the consumer to purchase. He has sufficient knowledge his decision was issued by free will, free from fraud or misleading. The breach of this obligation and if the consumer falls into deception or imitation leads to the termination of the contract. The consumer who suffered damage may claim compensation for damages if this compensation is required (Hussein, 2017; Al-Billeh, 2022e).

### **Second: The right of the consumer to withdraw from the conclusion of the contract**

There is no point in informing the consumer of information about goods and services without giving him time to think before entering into the contract. The aim of this obligation to the contractor before the consumer is to eliminate a common phenomenon represented by some contractors resorting to refusing to hand over contract forms to consumers except after signing them, and with this commitment, handing over contract forms to the consumer before the conclusion of the contract becomes mandatory.

Article (7/1/2) of the Jordanian Consumer Protection Law stipulates:

(A):1. If the commodity is defective, the supplier shall return it and refund its price at the request of the consumer or any other person to whom ownership of the item has been transferred.

2. If the supplier cannot return the commodity due to the appearance of the defect after the consumer has consumed it, the supplier shall pay the consumer an amount equal to the value of the damage.

(B 1. If the service is defective, the provider must return its price based on the consumer's request if the consumer does not receive that service or if the provider can withdraw from providing the service (Al-Jaf, 2017; Alkhseilat et al., 2022).

2. If the defect in the service appears after the consumer has received it in full, the provider shall pay the consumer an amount equal to the value of the damage.

The right of reversal is a license through which the consumer can retract his contract within a specific period specified by law (1).

French law has adopted the idea of abandoning the consumer in Article 121/16 in all remote purchases and limiting them within (7) days from receiving the product. The consumer can return the product, replace it, or recover the price without fines (Abdullah, 2009).

2. The French law also indicated that the seller must provide sufficient information to the consumer, including a statement of the terms and conditions for exercising the right of renunciation, information on after-sales services and

commercial guarantees, and the conditions for terminating the contract if its duration is not specified or the period is more than a year (Al-Haija, 2017; AL-KHAWAJAH et al., 2022).

**Third: The requirement to inform the consumer in the national language**

The obligation to take into account the mother tongue of each consumer is one of the forms of protection added by contemporary legal principles to the consumer for him to understand the content of the contract he wants to submit to, as current legal regulations require that the agreement is in the language of the consumer (Abdullah, 2009; Al-Billeh, 2022b; ALMANASRA et al., 2022).

He is obliging the supplier to inform the consumer in a language that he understands is one of the means of protecting the consumer, as he is the weaker party, so that the consumer submits to the contract with sufficient knowledge and knowledge of the nature and content of the subject of the agreement, the contractual terms and the method of payment (Al-Rifai, 1994; Al-Billeh & Al-Qheiw, 2023).

A global nature often characterizes the offer via electronic networks. It is made in the English language, which entails that the notification takes place before the contract, as the presence of unfamiliar technical and legal terms or with different connotations that express the legal system followed in the country of the provider or supplier may raise problems in Inform the consumer, significantly if the legal system in the consumer's country differs from the system in the supplier's country (Alshible et al., 2023; Al-Billeh et al., 2023a).

**Consumer protection from arbitrary terms**

We have already mentioned that the consumer is considered in the e-commerce contract via the Internet is always the weak party, so considerations of justice require that these contracts be considered as contracts of compliance so that the consumer has the right to request their annulment or return the arbitrary conditions in them if any. The reason for that is that most of These contracts are not available for negotiation, and therefore any random shape that the consumer can claim to be invalidated because it represents an assault on his interest.

Some jurists believe that the e-commerce contract is an arrangement of submission to the consumer due to his economic conditions as the weaker party in this relationship in front of the other party, which is often a dependable and giant company in financial terms with a massive capacity for advertising and marketing. Hence, considerations of justice require review. The consumer is an obedient party to the e-commerce contract; these giant companies in the scope of e-commerce are similar to monopolistic companies in compliance contracts in the face of the weak

consumer in the e-commerce contract (Abdullah, 2009; Isa et al., 2022; Al-Billeh et al., 2023b).

Whatever the freedom granted to him in the comparison between the goods and services offered to him, the massive advertising that takes place through the Internet, as well as the economic strength of the companies that provide the good or service, makes the consumer in need of protection, by removing the manifestations of compliance that he may have been exposed to, represented in Arbitrary terms that may be included in the contract (Al-Billeh, 2024b).

And the general rules in civil transactions, especially about contracts of adhesion, protect the obedient party as the weak party in the agreement, which is what Jordanian law has adopted. These same rules, when applied to the consumer in the e-commerce contract, achieve complete protection for him, whether it is related to the interpretation of the terms of the agreement, or what he omitted from it, as well as about the nullification and lifting of unfair conditions for that consumer (Hegazy, 2006).

### **Types of consumer criminal protection via the Internet**

Current legislation is keen to protect the consumer in general and in the field of electronic transactions and contracts in particular, so some acts that constitute an attack on him have been criminalized. Forms of these acts include commercial and industrial fraud and the crime of fraud in electronic commerce contracts, in addition to other forms of crimes that affect Consumers in e-commerce contracts.

Penal protection is located in electronic contracting by criminalizing the actions of the offender against the consumer to harm him via the Internet. Many modern laws and legislations have added this protection to the consumer in the rules of electronic commerce, as well as many articles contained in consumer protection laws, which provide for the criminalization of some acts that may fall on the consumer (Al-Jaf, 2017).

### **Penal protection against commercial and industrial fraud**

The commercial or industrial fraud that the consumer is exposed to within the scope of ordinary civil transactions in the content of the commodity is the same that he is told to in the event that the contract was concluded via the Internet. Indeed, the chance of fraud occurring in the case of contracting via the Internet is more significant in light of the lack of inspection of the commodity and that often.

Commercial and industrial fraud can be defined as s “Every act that would change the nature or usefulness of the materials that the actor’s work entered into,



and it does not matter the means that the actor resorted to achieve his goal. Cheating on it, decreasing some materials or adding other materials to it that increases its quantity and reduces its effect and other forms that are not included under limitation, as cheaters masterfully deduce them to achieve their purposes by obtaining huge and illegal profits (Mahmoud, 2002).

As for the crime of speculation, the law stipulates the necessity of imposing punishment. The penalty is doubled if prices increase, especially the basic materials such as flour, fuel, sugar and oil.

The Jordanian legislator indicated in paragraph (b) of Article (6) of the Consumer Protection Law that:

(B): Any of the following cases is considered a breach of contractual obligations:

1. Failure to deliver the commodity or provide the service to the consumer within the agreed period or the generally accepted period.

2. The information provided to the consumer about the commodity or service is incorrect, or the supplier conceals any essential information from the consumer.

3. The information provided to the consumer before completing the purchase process regarding the obligations incurred by the supplier to the supplier or the supplier's rights in confronting him was incorrect, or the supplier concealed any material information related to that from the consumer.

4. Unavailability of after-sales services or spare parts required for commodities or services whose nature requires that in the local market unless there is an agreement between the supplier and the consumer. Among the forms of penal protection for the consumer is protecting him from crimes of theft of credit card numbers. Seizing credit cards via the Internet is not difficult. Credit card thieves, for example, can now steal hundreds of thousands of card numbers in one day through the Internet and then sell this information to others. Many companies and banks have resorted to working together to overcome such risks, such as the agreement signed between the Hong Kong and Shanghai Banking Corporation, one of the largest banking institutions in Hong Kong, and Compaq Computer Company (HSBC) to develop the first secure automated system for e-commerce, which gives Merchants service a secure payment system to pass online purchases (Bayoumi, 2004).

### **Penal protection from fraud**

To promote his products, the producer or distributor may deliberately resort to misleading advertising, which may sometimes involve scientific fallacies, aiming to achieve a significant profit at the expense of the consumer deceived by

this advertising. The Internet and others state that their products entirely substitute breast milk. At the same time, the World Health Organization has proven that millions of children, especially in third-world countries, die annually before their first year of life because of their dependence on artificial milk for nutrition. These and other facts indicate that fraud or fraud crimes can occur via the Internet, where fraudulent methods in the form of misleading advertisements for the advantages of the commodity and the desired benefits are a way to seize the consumer's money (Husayn, 2017); the crime of fraud occurs in electronic commerce contracts when the provider deliberately resorts, To promote its products to misleading advertising, which may sometimes involve practical fallacies, at the expense of the consumer who is deceived by this advertising. Crimes of fraud or fraud can occur via the Internet, where fraudulent methods are represented in the form of misleading advertising for the advantages of the commodity and the desired benefits behind it (Al-Rifai, 1994).

And the punitive protection of the consumer against Internet service providers in the electronic sales contract, and the safety of electronic payment methods from infringement on them in electronic commerce. Most modern legislation also seeks to punish the offender when violating the confidentiality and privacy of consumer data and to punish the offender when he intentionally declares erroneous data to the consumer. Expect the latter. There is a mistake in the e-commerce contract, and the perpetrator is punished when he commits the crime of infringement of the electronic signature or the encrypted data of the consumer. The perpetrator is also punished when he forges the electronic documents to which the consumer is a party (Al-Hijazi, 2016).

We believe that all modern laws, especially consumer protection laws and e-commerce laws, should deal explicitly with consumer protection so that these legislations find deterrent penalties for those who exploit the consumer, who represents the weak party in exchange for fraudsters and criminals, as the consumer is not able to resist them (Husayn, 2017).

The Jordanian Consumer Protection Law is concerned in Article 23 and has given civil and penal lawsuits related to consumer protection the status of urgency (Bayoumi, 2004), Likewise, Article 25 of the same law specified the criminal penalty and the financial fine for violating the provisions of the law, as well as harsher penalties in the event of repetition (Al-Haija, 2017).

### **Conclusion**

The consumer's right to information and insight is represented through the description of the product or service subject of the contract and the statement of the basic features of the good or service. Knowing the characteristics and

descriptions of the offered goods and services is the essence of commitment because the parts of the good or service may be the primary motive for the consumer to contract. In Its frame, the consumer falls victim to fraud and imitation.

The electronic contract is considered a contract of compliance if there is no negotiation. The matter depends on the extent of the possibility of negotiation about the terms of the contract. If the electronic contract permits negotiation and allows the consumer to review and amend the terms of the contract, then it is not considered a contract of compliance. But if there is no negotiation or bargaining, The duration of the contract comes in a rigid manner that does not accept review. It is a contract of compliance, as most national legislation decided to put protection for the weak party - the consumer - which is represented in two fundamental aspects: protection from arbitrary conditions by authorizing the judge to amend the contract of compliance. The second is the interpretation of doubt in the interest of the compliant party.

Intensify the efforts of the competent authorities concerned with consumer protection in educating the consumer about his rights and duties when concluding electronic contracts. The need to support and activate the role of consumer protection bodies and associations in Jordan and work to qualify judicial cadres specialized in consumer issues in e-commerce contracts.

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