

Protecting Consumer Satisfaction to Support Trust in Electronic Contracting

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Abstract:

The consumer engaging in remote contracting via the internet is the weaker party in the economic equation. Hence, it is essential to enable them to optimally benefit from their financial resources and protect them from anything that could harm their economic interests, which are directly affected whenever any element of the desired goods is deficient. The information obtained by the consumer is determined by what the professional (the supplier) discloses.

Therefore, the latter is required to provide the consumer with several pieces of information before the latter concludes the contract, a requirement known as the obligation to enlighten. Trust in the electronic market is crucial for consumers to meet their personal needs. Thus, the legislator has moved towards imposing a formality to confirm the information provided to the consumer, through an electronic contract validated by the consumer, pursuant to Law 18-05 on electronic commerce.

Key words: Right to Information, Contractual Balance, Confirmation of Information, Sanctions.

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Introduction:

Contemporary life witnesses rapid developments in production and advertising, as well as a significant evolution in remote communication means¹, including the internet, which has contributed to the widespread proliferation of electronic commerce. This has enabled consumers to conclude contracts without the need for physical presence.

The professional trader, being stronger, possesses mechanisms for managing the electronic market with a complete understanding of its components and a superior informational position. Meanwhile, the consumer, despite being in a weaker position, strives to obtain the best products or the best service performance.

Legally, the situation is delicate, especially in the context of contracting between two parties, one of them being the consumer, who knows about the other party only what the latter's technologies allow. If premises are followed by consequences, then the stage of forming the contractual bond is most in need of legal protection.

The best approach to this protection should be directed at the pre-contractual stage, as it is the most sensitive and precise, involving the electronic domain². Did the Algerian legislator ensure the consumer's right to pre-contractual information? This will be addressed through two sections, the first discussing the subject of the pre-contractual obligation to inform and its purpose, and the second addressing the confirmation of information provided before contracting and the consequences thereof.

First Section: The Subject of the Pre-Contractual Obligation to Inform and Its Purpose

Protecting the consumer requires providing them with various pieces of information that may affect their decision in the field of electronic commerce³ before contracting. Defining the subject of the obligation to inform means that the professional trader (the supplier) must identify the information of interest to the consumer and present it without the consumer's request.

However, this does not mean that the supplier assesses the information according to a personal standard, which could lead to control over the extent of this obligation. Instead, the importance of the information should be assessed according to an objective standard. Comparative laws on electronic commerce have not settled for an objective standard to define the subject of the obligation to enlighten the consumer, preferring to specify what the supplier must provide in terms of data.

¹ The Algerian legislator defined the technology of remote communication in Article 3 of Executive Decree No. 13-378 dated November 9, 2013, specifying the conditions and methods related to consumer information, Official Gazette No. 58 as: "Any means without the personal and simultaneous presence of the intervenor and the consumer, which can be used to conclude a contract between these two parties."

² The consumer plays an active role in electronic commerce as they are the influential element in it. They contract with the intention of obtaining goods or services and browse websites in search of them, considering them their basic needs. See: Sami Mohammed Naseer, "Protection of the Consumer from Fraud in Electronic Contracts under Jordanian Law," Master's Thesis, Yarmouk University, 2010-2011, p.26.

³ An online merchant is no different from any other merchant; they are obligated to provide the consumer with all the necessary information to complete the contract. The offer presented on the web screen must be drafted with precision and clarity, and all mandatory information related to the contract must appear with the offer. Perhaps the most important information that laws agree must be provided to the consumer are those related to identifying the professional trader, as well as information about the basic characteristics of the goods or service. As the parties of the electronic contract are distant from each other, and the goods offered on the internet cannot be physically inspected by the consumer to verify their safety and suitability for their personal needs. See: Jamia Malika, "Information Consumer Protection," Doctoral Dissertation, Faculty of Law, University of Djilali Bounaama, Khemis Miliana, 2017-2018, p.53.

This is embodied by the Algerian legislator in Law 18-05 on electronic commerce, specifically in Article 11⁴. The legislator mentioned, for example but not limited to, the information that must be mentioned in the electronic offer—some of which we will mention. The consumer has the right to be informed about everything surrounding the goods or service offered, in addition to information about the seller or supplier's identity (First Requirement). Through informing the consumer, several goals will be achieved (Second Requirement).

First Requirement: The Supplier's Pre-Contractual Obligation to Inform

The right to information means that the contracting party must provide the other party with the necessary information required to assist them in deciding whether or not to contract. This right has two aspects, one positive and the other negative.

The positive aspect requires the supplier to provide the consumer with the information needed to make an informed decision about contracting or not. The negative aspect involves ensuring that the information provided to the consumer is free from lies, ambiguity leading to confusion, excessive exaggeration, or inadequacy to enlighten the consumer.

This requires that the information provided by the professional about the goods or service, included in the information card or commercial advertising, ⁵be truthful, honest, clear, and sufficient to enlighten the consumer and assist them in making the appropriate decision.⁶ The legislator emphasized the need to avoid ambiguity as stated in Article 11 of Law 18-05: "The electronic supplier must

⁴ Article 11 of Law No. 18-05, dated May 10, 2018, related to electronic commerce, Official Gazette No. 28 states: "The electronic supplier must present the electronic commercial offer in a visible, readable, and understandable manner, and it must include at least, but not limited to, the following information: tax identification number, physical and electronic addresses, telephone number of the electronic supplier, commercial register number or the craftsman's professional card number, nature and characteristics and prices of the proposed goods or services including all fees, availability of the goods or service, methods, costs and delivery deadlines, general conditions of sale, especially the terms related to the protection of personal data, commercial warranty conditions and after-sales service, method of calculating the price when it cannot be predetermined, payment procedures, contract termination conditions if necessary, a full description of the various stages of executing the electronic transaction, the validity period of the offer if applicable, conditions and deadlines for withdrawal if applicable, method of confirming the order, delivery date and price of the pre-ordered product and methods of canceling the pre-order if applicable, method of returning, exchanging, or compensating the product, cost of using electronic communication means when calculated on a basis other than the applicable tariffs."

⁵ Article 12 of Executive Decree 13-378, previous reference. on the mandatory labeling data: "Includes information about foodstuffs as specified in Article 9 above, taking into account the exceptions mentioned in this section, the following mandatory labeling data: the sales name of the foodstuff, ingredients list, net quantity expressed in the international metric system, the minimum durability date or the use-by date, special storage and/or use conditions, name or business name and trademark and address of the producer or packer or distributor or importer if the product is imported, country of origin and/or country of export if the product is imported, method of use and precautions for use in case its omission does not allow appropriate use of the foodstuff, batch share and/or date of manufacture or packaging, date of freezing or deep freezing for the concerned foodstuffs, ingredients and substances listed in Article 27 of this decree and its derivatives that cause allergies or intolerances and that were used in the manufacture or preparation of the foodstuff and are still present in the final product even in an altered form, nutritional labeling, statement of "percentage of acquired alcohol volume" for beverages containing more than 1.2 percent alcohol by volume, term Halal for the concerned foodstuffs, indication of the food irradiation code specified in Annex III of this decree accompanied by one of the following statements: "ionized or irradiated" when the foodstuff is treated with ionizing rays and must be indicated directly near the name of the food..."

⁶ Abdel Fattah Bayoumi Hegazy, "Consumer Protection on the Internet," Legal Books House, Egypt, 2008, p.40. See also: Khulwi (Anan) Nasira, "Legal Protection of the Consumer over the Internet," Master's thesis for the degree in Law, Specialty of Professional Liability, University of Mouloud Mammeri, 2013, p.16. The obligation to protect and promote the consumer imposes on the professional to undertake legal actions and physical acts that guarantee this protection, and the obligation of information is one of the most important elements that give confidence to the consumer on the internet. It is required that the professional provide several pieces of information to the consumer before the latter concludes the contract, which is referred to as the obligation of enlightenment (information). The aim is for the consumer to enter into the contract based on an informed consent.

present the electronic commercial offer in a visible, readable, and understandable manner...". The information must include the following:

First Subsection: Regarding the Distinctive Characteristics or Qualities of the Offered Goods or Services

In electronic commerce contracts, the good or service subject to the contract is not physically accessible to the consumer, exposing them to the risk of falling victim to temptation and negative advertising influence from the supplier. Such pressuring practices on the consumer's decision to contract and their desire to satisfy their needs via the internet cannot be confined.

The position of the professional or exhibitor in the field of electronic commerce is much stronger than that of the electronic consumer, who represents the weaker party. The consumer lacks the experience and sufficient knowledge about the goods and services they intend to acquire, in addition to being unfamiliar with information technology rules. Therefore, the supplier's obligation to enlighten the consumer and provide all the necessary information for them to express their will is one of the most important obligations on their part, in order to achieve complete, unmisleading, or defect-free satisfaction.

The supplier's obligation to inform or enlighten about the characteristics of the goods or service may be the main motivation for the consumer to contract, within which the consumer may fall victim to fraud and imitation.

In electronic commerce, where the supplier advertises their goods or service to the consumer, it is essential to mention the fundamental data and provide advice in a manner that ensures the consumer has sufficient and comprehensive knowledge—or as it is called, negation of ignorance—so that the consumer's will can be considered free at the time of contracting, avoiding the use of tricks or deceit, which would lead the consumer to contract without being fully aware of their obligations or future commitments.⁷

Informing about the price is one of the most important matters that must be clarified, as the consumer bases their decision to purchase goods and services on their financial capabilities, ensuring they do not pay more than the real value of the goods. In this context, it is necessary to avoid fictitious price reductions for the advertised goods and products.

Enlightening the consumer about the characteristics and qualities of the goods ensures that they proceed with the contract reassured of no fraud or deception by the supplier. Moreover, the importance of informing the consumer about the characteristics of the goods stems from the fact that the contract is made remotely, i.e., by electronic means, and therefore, the possibility for the consumer to inspect the goods is not available, highlighting the importance of focusing on informing and enlightening the consumer in electronic contracting.

Second Subsection: Regarding Identifying the Supplier's Personality

With a focus on trust and transparency that encourage electronic commercial transactions with consumers, most legislations have made it obligatory for the seller to identify themselves on the internet by mentioning all the information so that the consumer is fully aware and knowledgeable of whom they are dealing with. This might be considered in contracting, providing a sense of security in

⁷ Fatiha Mohamed Gourari, "Criminal Protection of the Consumer from Misleading Advertisements: A Study in Emirati and Comparative Law," *Journal of Law, Kuwait University*, Issue 3, 2009, p.254.

remote contracting, in addition to the importance of this identification in clarifying the seller's legal status and the clarity of their obligations and the possibility of their execution.

The offer displayed on the screen must include the tax identification number, physical and electronic addresses, the supplier's telephone number, and the commercial register number or the craftsman's professional card number. The electronic supplier's website must have means to verify its authenticity, among which is the necessity to register with the National Commercial Register Center.

Article 9 of Law 18-05 states that *"A national electronic suppliers' card is established at the National Commercial Register Center, including electronic suppliers registered in the commercial register, or in the register of traditional industries and crafts.*

Electronic commerce activities can only be carried out after depositing the domain name with the services of the National Commercial Register Center.

The national electronic suppliers' card is published through electronic communications and is available to the electronic consumer."

Information regarding the identity of the supplier is among the most crucial information that must be disclosed to consumers in online contracting. The nature of the internet in contracting processes obscures the possibility of recognizing the other contracting party's identity, which can cause significant detriment to the consumer who might refuse to contract for a particular good or service simply upon discovering the true identity of the seller or service provider. Knowing the supplier's identity is crucial for achieving complete consumer satisfaction, as it assures the consumer that the supplier is reputable and reliable in fulfilling obligations. This requirement for the supplier to inform the consumer about their identity is stipulated in the French Consumer Law under Article 121-18. Thus, informing the consumer about the supplier broadens the scope of the obligation to provide information, extending beyond merely communicating the terms of the contract to accommodate the unique aspects of internet-based contracting.

However, the issue that arises and must be paid attention to is that the electronic transaction occurs between two parties, supplier and consumer. If verifying the authenticity of the information related to the supplier is possible, it is not the same for the consumer. Among the most significant problems raised is the issue of capacity, as one of the contracting parties may claim full capacity while being of limited or no capacity, and the completeness of capacity varies from one country to another.

The issue of capacity in contracting raises some problems, the most significant being that it will be difficult for the remote seller to verify the other party's capacity on the network, which is a real problem that always appears in contracts concluded without the physical presence of the parties, as is the case with electronic contracts. Some believe that in the case of a minor stealing a parent's bank card and using it for electronic contracting, the trader or service provider's interest should be protected, and the contract should not be annulled due to the contracting party's lack of capacity, applying the principle of appearance.

It is permissible for the seller or service provider to insist that the minor appeared as the bank card owner and thus as an adult person. The contracting party or the service provider, acting in good

faith, may seek compensation from the minor based on tort liability rather than contractual liability in American law.⁸

The electronic contracting party, who cannot obtain complete information to prove their identity, is considered unknown, and ignorance is one of the contract nullifiers, especially in this context as it relates to one of the contract's essential elements, the contractors. Satisfaction in concluding the contract between the parties cannot be achieved if the information based on proving the identity of one or both parties is unknown.⁹

It may be better to issue certificates containing all the data related to the site and its seriousness, certified by professional bodies and consumer protection associations. These certificates can be withdrawn by the same entities in case of proven fraud or deception by the site responsible towards consumers.¹⁰

Second Requirement: The Purpose of Informing the Consumer Before Contracting

The importance of this right stems from the effect that commercial advertisements have on the consumer's will, which relies on excitement and dazzle to create the idea of purchase in their mind, and urge them to expedite its execution on one hand, and on the other hand, the consumer lacks the technical expertise and economic strength that the supplier possesses.

Through guaranteeing the consumer's right to be informed, the integrity of contracts is achieved (First Subsection), in addition to achieving contractual balance between the supplier and the consumer (Second Subsection).

First Subsection: Guaranteeing the Integrity of Contracts

Considering the consumer's lack of information about the good or service they wish to contract for, protecting them requires that professionals, i.e., the supplier, inform them and notify them of the characteristics of the goods and services subject to advertisement, and the risks associated with them, in addition to identifying the supplier.

Therefore, the consumer's right to information imposes an obligation on the supplier to provide them with the necessary information to help them make their decision to contract or not. The obligation to inform is essential and important for the integrity of contracts in the context of inequality between the contracting parties, where one party is in a lesser position than the other, who possesses economic strength and is knowledgeable of all the circumstances and details related to the contract.

This obligation replaces the negative neutrality represented in the absence of fraud, deceit, or misleading, as it expresses the imposition of a positive obligation of honesty and integrity towards the other contracting party. This is a realization of the principle of good faith that governs the execution of contracts, which should begin its course from preliminary negotiations and the conclusion of the contract and end with its final execution. If the information is honest, then the consumer's satisfaction will be sound, thus guaranteeing the stability of the legal positions of both parties and avoiding the annulment of the contract. This is because entering into a contract electronically involves technical steps that may be complex for some contracting parties. Furthermore, the data provided enables the

⁸ Mohamed Hazem Abdel Sattar, "Civil Protection of the Consumer in the Electronic Contract," Master's Thesis in Private Law, Middle East University, Faculty of Law, Amman, Jordan, 2018, p.37.

⁹ Mustafa Al-Nair Al-Manzul Hamed, "Legal Problems in Concluding Electronic Commerce Contracts: A Comparative Study with Islamic Jurisprudence," *Sharia and Law Journal*, Issue 28 Sha'ban 1437, August 2016, p.266.

¹⁰ Mohamed Hussein Mansour, "Electronic Liability," without mentioning the publishing house and place, 2007, pp.119-120.

recipient of the offer to make an informed decision about accepting or rejecting the offer, ultimately leading to enlightened consent.

Second Subsection: Guaranteeing Contractual Balance

The legal relationship between the consumer and the supplier is characterized by a special nature, with the imbalance between these two parties due to the disparity in knowledge making their wills unequal. This requires the relationship to be subject to specific legal provisions aimed at achieving parity between the parties. If the consumer's weakness stems from the supplier's knowledge, the latter is obliged to provide information, and the commitment to inform has become even more important in electronic commerce contracts, with the increase in technical advancement services thanks to the widespread use of the internet which relies on the consumer's interaction with a computer, consisting of thousands of computers connected via the internet network, making it easy to access many goods and services.

Technological development in this aspect represents a scientific reality that brings something new every moment, which should lead to the improvement of commercial ties between the supplier and the consumer with the aim of obtaining the best performance for electronic commercial practices.

However, the negative side of this technological development is embodied in overpowering the consumer in a way that seems hostile, which should affect the legal description of the electronic commerce contract over the internet compared to sales made at the consumer's domicile and residence, characterized by the consumer's inability to physically inspect the sold item or meet the supplier in a traditional contractual meeting.

Undoubtedly, scientific development and technological progress have had a significant impact on creating a disparity in knowledge levels among individuals. Since the contract of sale via modern communication means - the internet - is the offspring of this development and progress, it is conceivable that there will be a disparity in knowledge levels among the contract parties.

In this type of sale, there is no doubt that the seller or service provider is more knowledgeable about the intricate details of their goods, how to use them, and how to avoid their dangers. This has helped to form a new form of submission, different from its traditional appearance, based on a significant disparity between the contract parties, where one party, with substantial economic power, controls the precision of the contract and concludes it according to their terms that align with their personal interest, while the other party, with limited economic power, is driven by need to the contract's subject to submit to the other party's terms. Submission has now taken a new form where the weaker party, in terms of knowledge and science, submits to the other party with experience and knowledge.

They conclude the contract with complete or partial ignorance of the important aspects related to the contract, which, if known, would have placed them in a different stance towards the contract¹¹. Through informing the consumer, they will gain knowledge about what they will be contracting for, thus achieving a balance, even if relatively, between the supplier and the consumer.

¹¹ Ashraf Mohamed Mostafa Abu Hussein, "Seller's Obligations in Contracting by Modern Communication Means under the Provisions of Civil Law and Islamic Jurisprudence," Establishment of Ma'arif, Alexandria, 2009, p.115. See also: Abdullah Dheeb Mahmoud, "Consumer Protection in Electronic Contracting: A Comparative Study," Culture Publishing and Distribution, Amman, 2012, p.60.

Second Section: Confirmation of Information Provided Before Contracting and the Consequences of Breach

Given the temporary nature of the information provided by the supplier on the internet, many legislations have stipulated the necessity to confirm the information, to provide guarantees for the electronic contracting consumer (First Requirement), and as a guarantee for the execution of the obligation to inform, the legislator has imposed a penalty in case of breach (Second Requirement).

First Requirement: Confirmation of Information Provided Before Contracting

This requirement discusses the method or means the supplier uses to ensure the information mentioned on their website is accurate (First Subsection), and undoubtedly, ensuring the information benefits both contract parties equally (Second Subsection).

First Subsection: How to Confirm Information

Some legislations have sought to provide consumer protection by obliging professionals to confirm the information they have provided. This was enacted by the Tunisian Law on Electronic Commercial Exchanges of 2000, which states in Article 29 that the seller is obligated to provide information related to the sale ten days before concluding the contract if requested by the buyer.

Article 36 stipulates other obligations such as proving prior information, acknowledging the information, and respecting the deadlines¹². The French legislator in Article 111-1 of the French Consumer Law states that every professional seller of goods or service provider, before concluding the contract, must enable the consumer to be aware of the essential characteristics of the good or service.

Since the consumer places their trust in the professional producer and distributor, they must confirm their information, and as an application of this protection, Article 8 of the European Directive on Consumer Rights 2011-83 imposed on the professional to confirm the information in writing or on another durable medium. It should be made available to the consumer in a timely manner and at the latest by the time of the delivery of goods, aiming to strengthen the obligation to inform itself.

The doctrine has endeavored to define this concept in terms of the qualities of this medium and its role¹³. An electronic medium can be a CD, tape, or memory card, and the method of its transfer does not matter, whether by manual handling, i.e., writing, or loaded on an electronic medium of the mentioned type, or by remote electronic transmission over the internet or other modern communication means.

One of the fundamental conditions for considering an electronic document equivalent to a paper document is if the latter is naturally preservable over time because the writing medium, which is paper, is capable of being stored, archived, and preserved. Conversely, the electronic medium, regardless of its form, must also be prepared and capable of preservation through known technical methods. Preservation generally means two things: protecting the electronic document from alteration and protecting it from damage.

¹² Djamila Mahi-Disdet, "The Obligation of Information in Electronic Commerce Contracts," Doctoral thesis, University of Avignon, 2011, p.88. The function of a pre-contractual information obligation is to draw the attention of its recipient to a particular aspect of the future contract to ensure they make the decision to commit "in the most perfect" knowledge of the facts. To inform is to draw someone's attention to a reality they have every interest in knowing to judge better.

¹³ Dermach Ben Azouz, "Consumer Protection in the Field of Electronic Commerce," The Algerian Journal of Legal, Economic, and Political Sciences, Issue 2, 2011, p.381.

Protecting the electronic document from alteration means protecting it from any erasure, change, or truncation of what is written in it, which is also required for paper documents. To secure the preservation of the electronic document from alteration, science has developed special means, among which encryption is considered the most effective method to ensure the integrity of the electronic document from alteration and change. By this means, the clarity required in the document turns into obscurity that can only be understood by those who possess the key to access it and its content.

As for protecting the electronic document from damage, it means protecting the electronic carrier, whatever its type or form, from decay and deterioration, whether caused by human actions, time, or viruses. This requires a special system for storing and archiving these documents.

The Algerian legislator has imposed on the intervenor, if the offer is made by means of remote communication, to confirm this offer on their part. The legislator obligated the intervenor to confirm the previously provided information to the consumer, in writing or by any other durable means that can be referred to, as long as it is suitable and clear, and to present it to the consumer at the appropriate time before concluding the contract and, at the latest, at the time of delivery, in accordance with Article 5 of Executive Decree 13-378:

"Regardless of the provisions of this decree, the following rules apply to products offered remotely:

The necessity to adapt and preserve electronic documents ensures their equivalence to traditional paper documents, thus fulfilling the legal requirement for evidence preservation. This adaptation and preservation are essential for maintaining the integrity and longevity of electronic contracts and documents, ensuring that they remain valid and enforceable over time, and safeguarding the rights and obligations of all parties involved in electronic commerce.

The Algerian legislator imposed on the intervener, if the acceptance is made remotely, to confirm this acceptance. The legislator obligated the intervener to confirm the previous information to the consumer, in writing or by any other fixed method that can be referred to, provided that it is appropriate and clear. It must be provided to the consumer in a timely manner before concluding the contract and at the latest time of delivery according to Article 5 of Executive Decree 13-378.

"Regardless of the provisions of this decree, the following rules apply to products offered remotely:

1- Mandatory information specified in this decree must be provided before completing the purchase and displayed on the remote sale support, sent by any other appropriate and clearly specified method by the concerned intervener.

2- All mandatory information must be provided at the time of delivery..."

If the Algerian legislator did not restrict the means used by the intervener to confirm the information in the text of Article 5 aforementioned, he took a different stance in Law 18-05 related to electronic commerce under Article 10, where the information provided in the electronic commercial offer must be authenticated by an electronic contract ratified by the electronic consumer. It would have been better if the legislator did not restrict the supplier in the means to be used for documenting the provided information.

We are confident in the importance of documenting the information, as it is expected that the supplier may use deception in his offered acceptance online, presenting images or colors that may deceive the consumer. Hence, it became necessary to require writing or any means that preserves the

information to provide maximum protection to the consumer and to confirm their contractual satisfaction. This information is characterized by its transient nature; it quickly disappears from the computer screen.

Therefore, Article 8 of the mentioned directive allowed the consumer to receive written confirmation or access it on a fixed medium characterized by durability to confirm the vast majority of the information he is entitled to be informed about, and this should be done in a timely manner upon contract execution and until the moment of delivery.¹⁴

Notably, the supplier is not legally obligated to retain the electronic document containing the contract terms. Generally, the merchant is free to decide whether or not to keep this document. However, French consumer law imposes a specific requirement under Article 134/2 that merchants must preserve any electronic document that evidences a contract if its value equals or exceeds 120 euros, and maintain this record for ten years from the date of execution. This obligation is solely directed towards offers made to consumers and thus does not apply to contracts entered between merchants.

Section Subsection: The Impact of Confirming the Provided Information

The electronic consumer's contracting with the supplier is done without contemporaneity between them, but merely with a virtual presence within digital technologies. As for the traditional consumer, he conducts legal actions in the presence of tangible material concerning the contracting party in the contractual relationship, or even regarding the goods or services under consideration, making him more confident in the purchasing process of any goods or services.

The predominance of the risk element in this type of commerce due to its novelty or the ease of manipulation in the transactions conducted through it leads to a lack of confidence in transactions conducted through it. This is in addition to the fear of the virtuality of commercial websites by internet pirates.¹⁵

Therefore, comparative legislations and European directives have tended to impose a formality to confirm the information provided to the consumer, which is formalized to the benefit of the latter. The editor inscribed on this fixed medium is considered as a principle of written proof, allowing the consumer to rely on it in case of dispute between him and the other party.¹⁶

The need of the consumer for essential goods and services provided via the internet (such as tourism services, banking, insurance, flight tickets, hotel reservations, computer programs, etc.) drives him to engage in relationships through fake electronic websites, thus exposing him to fraud and deception, especially since he is the less experienced and knowledgeable party in commercial transactions conducted through the internet.

¹⁴ Nabil Mohammed Ahmed Sabeeh, "Consumer Protection in Electronic Transactions: A Comparative Study," *Journal of Law, Kuwait University*, Issue 2, 2008, p.214. It can be said that a durable medium must have the following characteristics: stability, readability or ease of use, non-alterability, and availability to the consumer, making it easy for them to use, and these characteristics are found in papers or electronic mails.

¹⁵ Mickael Boutros, "The Law of Electronic Commerce: An Approach to the Protection of the Cyber Consumer," *Doctoral thesis, University of Grenoble*, 2014, p.73. One can refer to Directive 2011/83EU, amending Directive 97/7EC, which states that supports such as paper, USB keys, CD-Roms, memory cards, computer hard drives, or emails can be considered durable mediums. The CJEU specifies that a website page does not represent a durable medium within the meaning of the directive since the merchant can change the information accessible there at any time. Sellers should therefore send their customers an email citing the mandatory information either in the body of the message or within an attached file.

¹⁶ Masouda Suleiman Belkhedra, "Civil Protection of the Consumer in the Electronic Contract: A Comparative Study," *Master's thesis, The University of Jordan, Graduate School*, 2006, p.73.

Therefore, compliance with informing in general, especially in the pre-contract stage, and writing what has been informed represents a preventive role, as it preserves the stability of the legal positions resulting from the contract and saves them from nullifying factors. The obligation to inform in writing is exempted in contracts for services executed remotely, by providing the service in a single installment.

Second Requirement: Penalties Resulting from Failure to Comply with the Duty of Prior Notification of Contracting and its Confirmation

The diversity of penalties stipulated by the legislator in case of failure to comply with the duty of prior notification of contracting with the necessity of its confirmation (documentation) leads to two types of penalties, civil penalty (first subsection), and criminal penalty (second subsection).

First Subsection: Civil Penalty

The importance of prior commitment to contracting becomes evident through the provision of penalties imposed on the supplier in case of breach. If the supplier fails to provide the necessary information in their commercial offer, as required by the legislator in every electronic commercial transaction, the consumer has the right to file a lawsuit based on Article 14 of Law 18-05¹⁷ to demand the nullification of the contract. Not only that, but the consumer can also claim compensation in case of any damages resulting from the breach.

The burden on the consumer is simply to prove that the supplier did not provide the information referred to in Article 11 of Law 18-05, or if provided on their website, it was not authenticated by an electronic contract. Through these provisions, the legislator relieved the consumer from seeking remedies within the framework of general rules, i.e., resorting to tort liability (Article 124 of the Civil Code) to demand the nullification of the contract, considering that the obligation falls in a stage preceding contract conclusion.

Second Subsection: Criminal Penalties

The Algerian legislator in Law 18-05 did not limit itself to civil penalties but also included criminal penalties. Civil penalties are inherently left to the discretion of the injured party (the consumer), who may request the annulment of the contract in case of the supplier's failure to disclose information, and may choose to maintain the contract despite the supplier's violation. Thus, the legislator has granted judicial police officers and agents specified under the Code of Criminal Procedure, as well as control agents affiliated with the Department of Commerce, the authority to inspect violations of Law 18-05.

Among the violations that a supplier might commit is failing to fulfill the pre-contractual information duty. If a report is issued by the aforementioned agents, the supplier will be penalized with a fine ranging from 50,000 DZD to 500,000 DZD. The judicial authority hearing the case may also order the suspension of the supplier's access to all electronic payment platforms for a period not exceeding six months, as stipulated in Article 39 of Law 18-05 on electronic commerce.

¹⁷ Article 14 of Law 18-05 states: "In case of non-compliance with the provisions of Article 10 or Article 13 above, by the electronic supplier, the electronic consumer may request the annulment of the contract and compensation for the damage suffered."

Conclusion:

Remote consumption contracts, especially those concluded over the internet, often leave the consumer lacking sufficient information about the goods or services and the contracting party, influenced by the professional's advertisements. The technical nature of the internet, the globalization of the world economy, and the development of electronic commerce have created extensive legal challenges centered around the impact of using electronic means in conducting commercial activities.

These impacts, resulting from advanced technology, have prompted various legal systems to address them through legislative movements in line with the developments of this era, as done by the Algerian legislator through the enactment of Law 18-05 on electronic commerce. We discussed one aspect of the protection that the legislator has dedicated to protect the consumer contracting against the supplier, namely, the obligation of pre-contractual information, noting that the concept of consumer outlined in this law is broader than the narrow concept adopted in the consumer law.

The consumer produced by the consumer society is all members of the community, thus their protection falls under the general obligations of the state, which is responsible for public security and regulating the relationships among community members in general. The state is required to achieve a balance between considerations of general economic interest and consumer interest.

Therefore, it is essential to make the pre-contractual information a general obligation on the part of the supplier for the benefit of all customers, without exception, whether consumers for personal or professional purposes. Internet sales contracts do not allow the customer to adequately discuss with the supplier, inspect the goods, or check them, nor do they provide the consumer with the information available in ordinary sales. Moreover, both the consumer and the professional customer appear to be less protected and remain the weaker party on the internet, unless the professional customer engages in the same profession to which the sale pertains. The supplier's obligation to inform the consumer functions as a critical safeguard to ensure enlightened satisfaction in online contractual engagements. This duty not only fosters consumer confidence in utilizing the internet as a robust platform for initiating contracts but also guarantees transparency across the digital landscape. By fulfilling this obligation, suppliers significantly enhance the likelihood of consumer participation in online contracts, thereby bolstering consumer trust and promoting a more transparent and secure online contracting environment. .

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