

Protection of Consumer in E-commerce
- Comparison Study between Algeria and European Legislations -

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Abstract: Consumer is weaker party in electronic contracts, especially business contracts (B2C). There are various legal systems in place to protect consumers such as law number 09-03 relating protection of consumer and repression of frauds and law number 04-02 relating The law defining the rules applicable to business practices and law and Electronic Commerce Law No. 18-05. All these special texts came after the failure of the general legal texts such as civil law to provide effective protection with the huge technological development known by the world of speed and consistency in the entry of goods and services the emergence of defective and adulterated products and service that harm the health and security of the consumer led the Algerian legislature to rethink consumer protection in electronic contracting, which is done in a different place and time and using electronic media such as the Internet, Fraudsters intend to get the biggest profit twice the security wall display, health and safety consumer wall display Especially if the contract is done by electronic contract enveloped by a weak consumer and a strong virtual interventionist hypothetical so we will highlight in this paper on the safeguards of protection in the stage of the formation of the electronic contract and the implementation phase of the electronic contract for the consumer throughout Algiers legislation and others international laws concerning protection of consumer.

Keywords: Electronic consumer- Electronic Provider - Electronic contract - phase of formation - phase of executive - products and services - period of retraction - penal liability- civil liability - obligation of information - law N°09-03 concerning protection of consumer and repression of fraud - law N°18-05 concerning electronic commerce.

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Introduction:

I. Recent stormy debate regarding consumer protection has led to advances in legislation generally speaking there are two categories of guarantees for consumer legal guarantees which create remedies for consumer goods or services that do not conform to the contract and commercial guarantees which create remedies for consumer goods or services that do not conform to the seller's express promises about the transaction. This is shown in Electronic Commerce Law No. 18-05¹ and in law number 09-03 relating protection of consumer and repression of fraud so we ask question: **To what extent special legal texts are effective in matters of protection of consumer in the two phases' formation and execution of the electronic contract? Or is consumer equally protected when transacting on the internet and when transacting in a traditional environment and is their protection always adequate?**

II. To answer this question, we suggested a plan:

Chapter one: Definition of electronic contract through laws

In this chapter we will deal with the definition of electronic contract in (section one) and we deal also with the parties of contract the provider and the consumer in (section two) finally we deal with the similarity between electronics contract and tradition contract in (section three).

Section one: Definition of electronic contract

The electronic contract is the vital artery of electronic commerce through which the process of exchanging the exchange of goods and services and the conclusion of contracts through those electronic media Communication, which works electronically, gives them the opportunity to conclude their contracts which operates in an electronic manner, allows them to conclude their contracts without having their actual and realistic presence necessary for them. These actions take place in a special hypothesis that does not adhere to the geographic boundaries that divide countries and the first issue in the electronic contract is how to protect consumer will, but it distinguishes the latter that the ways of expressing the will differ in the different means used to conclude this contract, which gives it a distinctiveness from the other contracts on the one hand and the protection of his satisfaction at the stage of the formation of the contract and the stage of implementation of the contract, according to the text of Article 106 of the Algerian Civil Code² In accordance with the provisions of Article 106 of the Algerian Civil Code, the contract, whenever it arises, fulfils all the requirements. It shall be considered as the law between the two parties. It shall not be vetoed, amended or cancelled except by agreement of the parties or for reasons prescribed by law. However, since the contractor in the electronic contract does not have the means to inspect the commodity and know the characteristics before the conclusion of the contract, the legislation governing the remote contracting in general and its counterpart on electronic commerce authorized the midwife to modify his acceptance after the implementation of the contract if it is found that he hastened to express his will or Acceptance was issued with uncertainty and this is called the

¹ Official Gazette n ° 28 dated 16-05-2018

²Article N°106 from Order No. 76-85 of 20-09-1975 Amending And Supplementing the Civil Code.

right to reverse or retract from the contract, as this right is a guarantee to protect consumer satisfaction or willin both stages.

Contract law composes of large set of rules that determines it components and enforcement nevertheless a contract is nothing more than a promise to perform or refrain from performing which if breached the law provides a remedy basically a legally recognized contract needs an offer acceptance and consideration³ mutual assent which is considered as the core of contracting consists of an offer by one party which is faced by an acceptance of that offer by another party and in case of absence of this minds meeting no contract shall be found there is no specific method for expressing an offer yet acceptance requires more clarity in order to create mutual assent manifesting an assent may arise via written document spoken word or any other conduct that shows that a party had that an intention to accept the terms of the offer⁴.

E-contract is any kind of contract formed in the course of e-commerce by the interaction of two or more individuals using electronic means, such as e-mail, the interaction of an individual with an electronic agent, such as a computer program, or the interaction of at least two electronic agents that are programmed to recognize the existence of a contract. The Uniform Computer Information Transactions Act provides rules regarding the formation, governance, and basic terms of an e-contract. Traditional contract principles and remedies also apply to e-contracts. This is also known as electronic contract.

The Algerian legislator defined the electronic contract in Law No. 18-05 of 10-05-2018, which includes electronic commerce, defined in Article 06, which states that the electronic contract is the contract within the meaning of Law No. 04-02, which defines the rules applicable to commercial practices dated 23-06-2004. Conclude it remotely without the actual and simultaneous presence of the parties using electronic communication technology.

Section two: The parties of electronic contract.

1- Electronic consumer

The Algerian legislator defined consumer in article 03 of Law No. 03-09, which includes the protection of the consumer and the suppression of fraud⁵, which reads: "The consumer is any natural or moral person who accepts, in return or free of charge, a commodity or service destined for end-use in order to meet his or her sponsored person's or animal's needs" It is understood from the text of the article that the Algerian legislator took the narrow concept of excluding the interventionist from protection also there is another definition of consumer in Article 06 of Law No. 18-05 on Electronic Commerce defines the electronic consumer as follows: "The electronic consumer is any natural or moral person who acquires, or free of charge, a commodity or service through electronic communications from the electronic supplier for the purpose of end use".

³ Donnie L. Kidd, Jr William H. Daughtry Jr (2000), Adapting contract law to accommodate electronic contracts overview and suggestions Rutgers computer and technology law journal.

⁴ Restatement of the law contracts, Restatement (second) of contracts (August 2010) chapter 03 formation of contracts mutual assent topic 03 making of offers retrieved, January 4th 2011 www.caseandcontroversy.com date 25-11-2019 hours 21.10.

⁵ Law N°09-03 dated in 25-02-2009, concerning protection of consumer and repression of fraud Official Gazette n ° 15 dated 08-03-2009.

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2-The intervention (provider)

Intervention⁶ any natural or moral person who intervenes in the process of presenting products for consumption it is understood from the text of the article that the intervention is the seller, producer, distributor, importer, economic agent It is understood from the text of the article that the intervener is the seller, producer, distributor, importer, economic agent where the latter has technical and technical information about the product and service, where the exclusion of the Algerian legislator from the protection provided for the consumer also there is another definition for intervener in article 06 from law N°18-05 concerning electronic commerce it says that Electronic supplier Any natural or moral person marketing or proposing the provision of goods or services through electronic communications.

The subject of the electronic consumption contract is the provision of a good or service in return or free to the consumer by the intervener such as consumer electronics refers to any electronic devices designed to be purchased and used by end users or consumers for daily and non-commercial professional purposes.

Consumer electronics are among the most commonly used from of electronic computing and communication devices⁷ The Algerian legislator defined the product in Article 03, paragraph 10, by saying that the product is any good or service that may be the subject of a waiver in return or free the service also defined in the same article by saying the service is all the work of the non-delivery of the blow even if this delivery is a follower or support for the service.

Section three: The similarity between electronics contract and tradition contract.

Electronic contract requires acceptance, reason, prices condition which specifying and place and all the condition which specifying the responsibilities of the contractual obligations but the electronic contract similar to traditional contract⁸ in the usage mean that show or offering the contract therefore the electronic contract is being done without the presence of parties in the council of the contract which raises some difficulties like the opening nature and global of the internet and the confidentiality of exchanged information and to determine the eligibility of contractor place and time of the contract this refer to the privacy of the non-material electronic letters such as information message which raised a question about the extent of counting it in contract and the approval of it too. The Algerian legislator should put the lines and principles of electronic contract to hold it correctly in the electronic way.

Recent stormy debate regarding consumer protection has led to advance in legislation generally speaking there are two categories of guarantees for consumers legal guarantees which create remedies for consumer goods or services that do not conform to the contract and commercial guarantees which create remedies for consumer goods or services that do not conform to the seller's express promises about the transaction this is shown in article 18 and 19 from law n°18-05 which includes electronic commerce also the European legislator mention it in the article 2 and 03 of the amended proposal for a directive of the European parliament and of the council on the sale of consumer goods and associated guarantees in

⁶ Article 03/07 from law N°09-03 concerning protection of consumer and repression of fraud.

⁷ See www.techopedia.com/definition/757/consumer-electronics-ce hour 17:25 pm date 26-11-2019.

⁸ Lahlou Ghanima Khiar, Theory of contract, home of thought, edition 2018 p.33.

April 1998⁹ A popular catch-phrase in media and politics for the real bearer of goods or services which includes laws that mandate an increase in the amount of information available to them and laws may expose commercial actors to increased liability.

Considering the important role, the consumers maintain together with reality that consumers are usually individuals and thus in a weak position it is more necessary to provide them with adequate protection. This standpoint is acceptable to merchants as well as consumers as without consumers their original policies will urge consumer confidence and thus further their participation in transactions and improve business.

Consumers would expect to see their interests being protected on the internet but the increasing cross-border nature of electronic commerce makes it difficult to protect consumers from fraud and other damaging activities¹⁰ attempts by consumers to enforce their rights through private law suits naming foreign defendants are subject to all of the difficulties experienced by government agencies attempting to enforce law across borders. The costs of maintaining an action against a defendant located outside national jurisdiction are likely to deter all but the most seriously injured consumer protection policies are unsuitable for the internet age and require timely adjustment.

Chapter two: The protection of consumer in Contract formation phase

In this chapter we are going to deal with very most important right as means of protection consumer in the two phases of contract the formation phases and the executive phases is the right of retreat in contract also the most important obligation the right to knowing goods and services also knowing the right to informer consumer (**Section one**) after that we deal The establishment of civil and criminal liability as a means of protecting the consumer from commercial fraud or counterfeiting of trademarks through online market in (**Section two**) finally we are going to deal in (**Section three**) the protection of consumer through law N°18-05 concerning electronic commerce.

Section one: The right of retreat contract.

The Algerian legislator rethink about the protection of consumer in the stage pre-contractual in order to create mechanism because the consumer is the weaker party in the contract and the failure of civil law to protect him against especially theory of defect will from the inclusion of effective and adequate consumer protection and the purpose of conclude the contract to do something for consumer not Revoke the contract, request compensation and return the contractors to the condition they were before the contract This is contrary to the principle of contract stability that's why legislator Promulgated special laws in order to protect the weak consumer and restore the contractual balance between the interventionist and the consumers such as:

The protection of consumer through the Algerian civil law

In order for contentment to be a product of its legal effects on the sales contract, it must be correct according to the general rules, and the Algerian legislator¹¹ has added to the general

⁹ Brady G.T, consumer protections in the European community hope for the consumer or unfulfilled promises? North Carolina Journal of international law and commercial Regulation, Vol. .35.No1 pp166-172,1997.

¹⁰Rothchild, Protection the Digital consumer: The limits of cyberspace utopianism, Indiana law Journal, Vol. 74 P 925,1999.

¹¹ Kanundz.blogspot.com/2019/blog-post-65.html hour 22:38 date 10-12-2019

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rules a special defect that is wrong with the will stipulating that the buyer must be aware of the sale in order for the sales contract to be valid, which is stipulated in Article 352 of The civil that the Algerian legislator derived from the provisions of the option of seeing in Islamic law, and what is meant is that the contractor has the right to cancel the contract or to sign it when seeing its place if it had not seen it when the contract was created or before it at a time that does not change.

First: Knowledge of sales

There is nothing in the application of the general rules on the sales contract that requires special study except for what is wrong, as the legislator stipulated the buyer's knowledge of the sale in order to reconcile the choice of vision in Islamic law with the provisions of mistake and the provisions for appointing the sale in modern law. Examine it when studying the price as the primary store of the buyer's commitment. We limit ourselves here to studying the ruling on the knowledge of the sold thing. Article 352 of the Civil Code stipulates, "The buyer must be aware of the sale with sufficient knowledge, and knowledge shall be sufficient if the contract includes a statement of the sale or its basic descriptions so that it can be identified."

And if it is stated in the sale contract that the buyer is aware of the sale, the latter's right to request the invalidation of the sale shall be forfeited on the pretext of not being aware of it unless it proves the seller's fraud.

Second: distinguishing sufficient knowledge with sale and similar behavior

1- Adequate knowledge of sales and mistakes

In this text, the legislator has taken more than the aforementioned article more than what is stipulated in the provisions of mistake in the civil law. According to the provisions of the mistake, the buyer may not request nullification of the sale, unless he claimed that he was involved in a fundamental mistake in the sold thing, and he must prove that, and it is not sufficient to prove this, the buyer has not previously seen the sold thing as long as he was appointed in the contract to an adequate and negligent appointment.

2- Adequate knowledge of selling and designating the store

In this text, the legislator has taken more than what is prescribed in the provisions for appointing a place in the general rules, as it is sufficient for the contract to be held in a designated location or subject to appointment. Even if the buyer has not seen it in particular.

3- Adequate knowledge of sales and choice of vision

In this text, the legislator has taken some provisions prescribed in the Sharia from the choice of vision, and has reconciled them with the provisions established in the Civil Law for mistake or for appointing a place.

It is established in the Hanafi school of Islamic law that the buyer has the option of seeing if the sale is something in particular and he did not see it at the time of purchase, and this right is established for the buyer alone without the seller, and it means the right of the

buyer to withdraw from the purchase when he sees the sold thing and if he had bought it On the basis of certain traits, the traits are identical to the one described.

The protection of consumer through law n°09-03 concerning consumer protection and fraud suppression

Law No. 18-09 of 10-06-2018¹² amending and supplementing Law No. 09-03 of 25-02-2009 on consumer protection and fraud suppression Article 19 of the aforementioned law states: "The product provided to the consumer shall not prejudice its material interest and shall not cause moral harm to him.

Modification is the right of the consumer to retract the acquisition of a product without a reason.

The consumer has the right to refrain from acquiring a product within the respect of contracting conditions and without additional expenses.

It specifies the conditions and how to exercise the right to change, as well as the terms and list of products through regulation” meaning that legislator wants to protect consumer in the phase of formation of contract also penalize the electronic supplier according to article 78 bis of Law No. 18-09 amending and supplementing Law No. 09-03 on Consumer Protection and Fraud Suppression Anyone who violates the provisions relating to the right of injustice stipulated in Article 19 shall be liable to a fine of fifty thousand dinars (50,000 dinars) to 500,000 dinars Any person who violates the provisions relating to the right of retract provided for in Article 19 from the previous law. The right of retraction is considered one of the most important means created by modern legislation in order to protect the consumer in the post-contract phase. This option is particularly important in electronic consumption contracts the consumer usually rushes to conclude the contract in an atmosphere where the producer incites him to buy under the influence of advertising means.

In other hand French legislator¹³ define the right of retraction according to law he says that The consumer has a period of 14 days to exercise his right of withdrawal from a contract concluded at a distance, following a canvassing telephone or off-premises, without having to justify his decision. The subscription of subscription by Internet or telephone is thus accompanied by a right of retraction, contrary to the purchases and subscriptions carried out in shop. In the latter case, the seller may possibly agree, in a commercial capacity, to cancel the contract or refund the property, but has no obligation to do so.

Note however that the right of withdrawal does not exist in certain circumstances referred to in Article L.221-28 of the Consumer Code, as in the case of services fully performed, with the agreement of the consumer, before the end the withdrawal period (for example, video rental on demand).

¹² Official Gazette n ° 35 dated 13-06-2018

¹³For more information visit the web site: www.mediation-telecome.org/publications/guides-et-fiches-pratique/1-exercice-du-droit-de-la-consummation hour 17 :09 pm date 29-11-2019.

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What is the starting point of the withdrawal period?

The 14 days period starts from the subscription of the contract¹⁴, if it is a service delivery, or from the reception of the good, if it is a sale associated with a service (for example, mobile purchase).

However, if there has been prior telephone solicitation, the withdrawal period does not run until the consumer has signed the contract, or given his consent electronically. Similarly, if the trader has failed to inform the consumer of the right of withdrawal and its terms, it is extended for a period of up to one year.

The consumer has a period of 14 days¹⁵ to exercise his right of withdrawal from a contract concluded at a distance, following a canvassing telephone or off-premises, without having to justify his decision.

Can the execution of the contract begin before the end of the withdrawal period?

Yes, provided that the consumer gives his prior consent¹⁶.

For example, it is possible to take out a subscription by asking the operator to proceed, without delay, to the porting of the line number. This does not call into question the possibility for the consumer to retract later.

Nevertheless, requesting the execution of the contract before the end of the withdrawal period entails certain risks, if the consumer finally decides to retract:

If the retraction occurs while a number porting request is in progress (and even more so if the porting has already been implemented), it is likely that this will result in the permanent loss of the line number¹⁷.

If the withdrawal relates to a change of offer, it is not always possible for the operator to restore the offer that was initially applied, especially when it is no longer marketed.

What are the terms of the retraction?

The professional must make available to the consumer a withdrawal form. However, it is not mandatory to use this form. The consumer must simply ensure that his request is clearly formulated.

¹⁴ Art. L.221-18 French consumer code

¹⁵ The same period the Algerian legislator mention it in Article n° Article 19 of Law No. 18-09 of June 10 amending and supplementing Law No. 09-03 of February 25, 2009 on Consumer Protection and Fraud Prevention." It stipulates that the product provided to the consumer must not affect his material benefit and not cause him moral harm.

The retraction is the consumer's right to withdraw the purchase of a product without reason. The consumer has the right to refrain from acquiring a product within respect of the contracting conditions and without paying additional expenses, where conditions and modalities for exercising the right to refrain as well as the deadlines and list of the products concerned are regulated by regulation "Official Gazette No. 35 dated 13-06-2018.

¹⁶ Art. L.223-18 French consumer code.

¹⁷Art L224 French consumer code.

What are the consequences of the retraction?

The retraction request terminates the obligations of the parties and the related invoicing. However, if the execution of the contract has begun with the agreement of the consumer, the latter must pay the price of the services that have already been provided. In the event of a sale, the property must be returned to the operator, the restitution costs being borne by the consumer.

Section two: The establishment of civil and criminal liability as a means of protecting the consumer from commercial fraud or counterfeiting of trademarks through online market.

Algerian legislator mention in Law No. 09-03 on the protection of consumers and the suppression of fraud specifies a set of obligations for the intruder, and includes the establishment of criminal and civil liability in case of violation.

The effects of civil liability is to compensate the consumer for the damage he has suffered as a result of acquiring defect good or service in other hand we can based our civil liability by two legal references the article 124¹⁸ from Algerian civil law (Tort liability) and Contractual liability based on breach of contractual obligation. As for the effect of the criminal responsibility, it is the fine and imprisonment of the interferer.

The study of commitment to electronic media prior to contracting via the Internet provides effective protection for those who cooperate over electronic communication networks from the risks that may be exposed to it.

Moreover, law number 18-05 relating electronic commerce states some effects of criminal liability in chapter three named Crimes and penalties in article N°37 says that Without prejudice to the application of the harsher penalties stipulated in the legislation in force, a fine of 200,000 DZD to 1,000,000 DZD shall be imposed on anyone who offers to sell or sell by electronic communication the products or services mentioned in Article 03 of this law.

Judges can order that the website be closed for a period from 01 months to 6 months.

Article 38 of the aforementioned law states without prejudice to the application of the harsher penalties stipulated in the applicable legislation, the penalty shall be from 500,000 DZD to A.000,000 DZD whoever violates the provisions of Article 05 of this law.

The judge can order the closure of the website and the removal from the commercial register.

Article 39 of the previous law stipulates that it is punishable by a fine of 50,000 DZD to 500,000 DZD for every electronic resource that violates one of the obligations stipulated in Article 11 and 12 of this law. The judicial authority before which the lawsuit was filed may also order the suspension of its access to all platforms Electronic payment for a period not exceeding 06 months.

¹⁸Art 124 from Algerian civil Law.

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Article 40 of the same law stipulates that without prejudice to the rights of victims to compensation, a fine of 50,000 to 500,000 dinars shall be imposed for anyone who violates the provisions of Articles 30, 31, 32 and 34 of this law.

Article 41 of the aforementioned law stipulates a fine of 20,000 dinars for each electronic resource that violates the provisions of Article 25 of this law

What is the commitment to electronic media before contracting via the internet?

The commitment to electronic media via the internet is one of the most important legal guarantees to achieve equality in knowledge and knowing between the two parties to the relationship and the integrity of their will, and that the contract is between a professional contractor and a buyer or consumers who need the protection of the law.

Define commitment to electronic media before contracting over the internet

The electronic media can be defined before contracting via the internet is that it is a legal obligation prior to the conclusion of the electronic contract whereby one of the parties who possesses essential information regarding the contract intended to be concluded is provided by electronic media in a timely manner and in all transparency and honesty to the other party who cannot know about it by its own means.

Section three: The protection of consumer through law N°18-05 concerning electronic commerce.

The Algerian legislator promulgation these law in order to protect electronic consumer from dissipation and fraud when he or she bought goods and services from internet Article 1 of Law No. 18-05 of 10-05-2018 states that: "This law specifies the general rules relating to electronic commerce of goods and services" Article 02 of the aforementioned law¹⁹ stipulates that this law shall be applied in the field of commercial transactions in the case of a party to the contract:

1-Have Algerian nationality.

2- A legal resident of Algeria.

3- A moral person subject to Algerian law or the contract is being concluded or executed in Algeria also the Algerian legislator says in article 03 from the previous law that Electronic commerce is practiced within the framework of the legislation and regulations in force.

1-Gambling, betting and lottery.

2-Alcoholic beverages.

3-Pharmaceutical products

4- Products that affect intellectual, industrial or commercial property rights.

¹⁹Law No. 18-05 of May 10, 2018, related to electronic commerce Official Gazette No. 28 dated 16/05/2018.

5-Any good or service prohibited by applicable legislation.

6-Each good or service requires the preparation of a formal contract. All transactions made through electronic communications shall be subject to the rights and fees stipulated in the applicable legislation and regulation.

Article 08 of Law No. 18-05 related to electronic commerce provides that electronic commerce activity is subject to registration in the commercial registry or in the record of traditional and handicraft industries as appropriate and to be published on a website or electronic page on the Internet hosted in Algeria dz or com.

The website of the electronic resource must be available on methods that allow confirmation of its page as stipulated in Article 09 of the same aforementioned law. A national card for electronic suppliers shall be established at the National Center for Commercial Register.

The national card for electronic suppliers is published through electronic communications and is accessible to the electronic consumer, as stated in Article 10 of the same aforementioned law²⁰ of Chapter Three under the heading requirements related to commercial transactions. By electronic communication, every electronic commercial transaction must be preceded by an electronic commercial offer and documented according to an electronic contract that the electronic consumer authenticates, whereby the electronic supplier must submit his commercial offer on a It is visible, readable and understandable and should include at least but not limited to the following information:

- Tax identification number, physical and electronic addresses, and electronic supplier's phone number.

- The commercial registration number or the professional card number of the two letters.

- Tax identification number, electronic physical addresses, and electronic supplier's phone number.

- The nature and characteristics of the prices of the proposed goods or services by calculating all fees.

- If the good or service is available.

- Methods, expenses and deadlines for delivery.

- Terms of the commercial guarantee and after-sales service.

- How to calculate the price when it cannot be determined in advance.

- Payment methods and procedures.

- Conditions for termination of contract, if necessary.

²⁰Law No. 18-05 of May 10, 2018, related to electronic commerce Official Gazette No. 28 dated 16/05/2018.

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- A complete description of the various stages of implementing the electronic transaction.

- The validity period of the offer, if necessary.

- Conditions and deadlines for retirement, when necessary.

- How to confirm the order²¹.

- The date of delivery, the price of the product subject to the pre-order, and how to cancel the order when necessary.

- Method of returning, exchanging, or replacing the product.

- The cost of using electronic means of communication when it is calculated on a basis other than the applicable tariffs.

- The order for a product or service by the electronic consumer also passes through three mandatory stages:

- Putting the contractual terms within the reach of the electronic consumer, so that he will be able to contract with full knowledge and knowledge.

- Verify the order details from the electronic consumer, especially with regard to what products or services are required, the total and unit price and the quantities required in order to enable him to amend the order and cancel it or correct potential errors.

- Confirm the order that leads to the formation of the contract.

- The choice made by the electronic consumer must be expressly expressed.

- Cells marked for solvency by the electronic consumer must not include any data intended to guide its choice.

Article 13 of the same law also stipulated that the electronic contract must include in particular the following information:

- Detailed characteristics of the goods or services.

- Delivery terms and conditions.

- Warranty terms and after-sales services.

- Terms of termination of the electronic contract.

- Payment terms and conditions²².

- Conditions and modalities for returning the product.

²¹Law No. 18-05 of May 10, 2018, related to electronic commerce Official Gazette No. 28 dated 16/05/2018.

²²Law No. 18-05 of May 10, 2018, related to electronic commerce Official Gazette No. 28 dated 16/05/2018

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- How to handle complaints.
- Conditions and modalities of pre-order when necessary.
- Special terms and conditions relating to sale by trial, if necessary.
- The competent judicial authority in the event of a dispute in accordance with the provisions of Article 02.
- Duration of the contract, depending on the case.

Article 14 of the same law also stipulates that in the event that the provisions of Article 10 or the provisions of Article 13 above are not respected by the electronic supplier, the electronic consumer can request the termination of the contract and compensation for the damage caused to him in other hand The pre-order cannot be subject to payment unless the product is in stock once the product is available. The pre-order is implicitly converted to a confirmed order and without prejudice to the electronic consumer's right to compensation the electronic supplier must return the price if paid before the product is in stock.

Among the effects of the electronic consumption contract is that it arranges rights and obligations for each of the contractors, whether it is an electronic consumer or an electronic supplier only. Article 16 of the aforementioned law stipulates that the electronic consumer's obligations are to pay the price to the electronic resource unless the contract stipulates otherwise from one side and on the other hand it stipulates Article 17 of the same aforementioned law. The electronic supplier must ask the consumer to sign a receipt on the actual delivery of the product or to perform the service that is the subject of the contract where the electronic consumer cannot refuse to sign where a copy of the receipt has been received mandatory for the electronic consumer.

Article 18 located under Chapter Five entitled the duties and responsibilities of the electronic supplier states that after the conclusion of the electronic contract, the electronic supplier becomes responsible by the force of law before the electronic consumer for the proper implementation of the obligations resulting from this contract, whether implemented by him or by other service providers without prejudice to his right to return Against them²³.

However, the electronic resource can be decomposed from its full responsibilities or a part of it if it proves that the lack of implementation or its misfortune is due to the electronic consumer or to a force majeure, as Article 19 of the same previous law stipulated that once the contract is concluded the electronic supplier shall send an electronic copy of the contract to the electronic consumer.

As stipulated in Article 20 of the same law, every sale of a product or service through electronic communications requires that an invoice be submitted by the electronic supplier to be received by the electronic consumer. The invoice must be Article 21 stipulates that when the electronic supplier delivers a product or service that has not been requested by the electronic consumer, he cannot claim payment of the price or delivery expenses, as stated in article 22 that in the event that the electronic supplier does not comply with the deadlines of delivery, the electronic consumer can resend the product in his condition within a maximum period of 4 Business days starting from the date of actual delivery of the product without prejudice to its right to claim compensation for the damage. Prepared in accordance with the

²³Law No. 18-05 of May 10, 2018, related to electronic commerce Official Gazette No. 28 dated 16/05/2018

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legislation and regulation in force in which the electronic consumer can request the invoice in its paper form in this case, the electronic supplier must return to the electronic consumer the amount paid and the expenses related to resending the product within 15 days, starting from the date it received the product.

Article 23 stipulates that the electronic supplier must recover his goods in the event of delivery of a purpose that does not conform to the order or in the event that the product is defective the electronic consumer must re-send the commodity in its original packaging within a maximum period of 04 working days starting from the date of actual delivery of the product with an indication of a reason Rejection and re-transmission costs are the responsibility of the electronic supplier, and the electronic supplier is obligated with the following:

New delivery approved for the order, repairing the defective product, replacing the product with a similar one, cancelling the order and returning the sums paid without prejudice to the possibility of requiring the electronic consumer to compensate in the event of damage²⁴.

The sums paid must be returned within 15 days of receiving the product.

Through the foregoing, we find that the Algerian legislator mentioned a set of obligations that fall on the electronic supplier, including penalties for violating it, whether civil or criminal sanctions.

Article 35 of Chapter Three Entitled Crimes and Penalties from Chapter One under the heading of monitoring electronic suppliers and inspecting violations. The electronic resource is subject to the legislation and regulation in force applicable to commercial activities and consumer protection.

Article 36 provides for an increase in the judicial police officers and agents stipulated under the Criminal Procedure Law, which qualifies to inspect violations of the provisions of this law. The agents belonging to the control wires of the departments in charge of trade.

The methods of control and inspection of violations stipulated in this law shall be carried out according to the same forms specified in the legislation and regulation in force, especially those applied to commercial practices, to the conditions for carrying out commercial activities, to consumer protection and the suppression of fraud.

The electronic resource must allow eligible agents to inspect violations by freely accessing the dates of commercial transactions.

Chapter three: The protection of consumer in Contract execution phase

In this chapter we are going to deal with the legal basis and controls of the right of retraction to change the electronic contract in (**Section one**) and in the (**section two**) we deal the right of information throughout Directive 2011/83/EU of the European an parliament of the council of 25-10-2011 on consumer rights

²⁴Law No. 18-05 of May 10, 2018, related to electronic commerce Official Gazette No. 28 dated 16/05/2018

Section one: The legal basis and controls of the right of retraction to change the electronic contract.

The right of retraction their origin found either in the agreement²⁵ of the contractors Or in the provisions of the law so distinguish jurisprudence between two types of retraction and make each of them has basis beside this Algerian legislator he does not gives this right absolute to the consumer he puts some rules and exceptions in order to limit the right of consumer:

1- Foundations of the right to change the electronic contract.

The agreement of the parties shall be the basis of the contract based on the principle of willpower but the option of renunciation is an exception to the principle of binding force of the contract, so the contractors can violate this rule by agreeing to grant the option of reneging on the contract for both or one of their own volition without depending on the will of the other party. The agreed duration should be specified and the contract shall be final and final only after the end of the period granted by the legislator to the consumer.

2- Execution of the contract in good faith:

Having good faith in the implementation of the contract²⁶ is very important. Good faith plays the role of the engine in the contractual relationship. Good intent is assumed by the contractor unless it proves who has the opposite interest. Good faith has two aspects: the first is the integrity of the contractor, and the second is the cooperation of each contractor with the other during the implementation of the contract.

3- Commitment to Integrity

Good faith requires the integrity of the contractor in carrying out its commitment and faithfully. Integrity and sincerity means that the contractor enjoys all fraud or fraud that makes the implementation of the obligation difficult or impossible, and the legislator referred to this obligation in several articles, including Article 361 civil code, which states, "The seller is obliged to carry out the necessary sale right to the buyer and refrain from for every action that would make the transfer of the right difficult or impossible".

4- Commitment to Cooperation

In addition to integrity, the contractor has an obligation to cooperate in accordance with the requirements of good faith. This positive obligation requires that the contractor be informed and notified of all events of interest to the contract. This obligation is not limited to the stage of implementation of the contract, but also includes the stage of its formation, as noted above till then.

²⁵ Article 106 of the Algerian Civil Code "The contract is the law of the contractors, it may not be vetoed, nor amended except by agreement of the parties, or for reasons prescribed by law."

²⁶ Article 107 civil code:" The contract shall be executed in accordance with what it contains and in good faith. - The contract not only binds the contractor to what is mentioned in it, but also deals with what is required by law, custom and justice according to the nature of the obligation.

However, if there were general exceptional incidents that could not have been foreseen, the contractual obligation would have occurred

If it does not become impossible, the debtor is so exhausted that it threatens him with a heavy loss.

In the interest of both parties, the onerous obligation shall be restored to the extent reasonable and any agreement to the contrary shall be null and void".

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Section two: The right of information throughout Directive 2011/83/EU of the European Parliament and of the Council of 25-10-2011 on consumer rights

The trader should be obliged to inform the consumer in advance of any arrangement resulting in the consumer paying a deposit to the trader, including an arrangement whereby an amount is blocked on the consumer's credit or debit card.

The trader should give the consumer clear and comprehensible information before the consumer is bound by a distance or off-premises contract, a contract other than a distance or an off-premises contract, or any corresponding offer. In providing that information, the trader should take into account the specific needs of consumers who are particularly vulnerable because of their mental, physical or psychological infirmity, age or credulity in a way which the trader could reasonably be expected to foresee. However, taking into account such specific needs should not lead to different levels of consumer protection.²⁷

The information to be provided by the trader to the consumer should be mandatory and should not be altered. Nevertheless, the contracting parties should be able to expressly agree to change the content of the contract subsequently concluded, for instance the arrangements for delivery.

In the case of distance contracts, the information requirements should be adapted to take into account the technical constraints of certain media, such as the restrictions on the number of characters on certain mobile telephone screens or the time constraint on television sales spots. In such cases the trader should comply with a minimum set of information requirements and refer the consumer to another source of information, for instance by providing a toll free telephone number or a hypertext link to a webpage of the trader where the relevant information is directly available and easily accessible. As to the requirement to inform the consumer of the cost of returning goods which by their nature cannot normally be returned by post, it will be considered to have been met, for example, if the trader specifies one carrier (for instance the one he assigned for the delivery of the good) and one price concerning the cost of returning the goods. Where the cost of returning the goods cannot reasonably be calculated in advance by the trader, for example because the trader does not offer to arrange for the return of the goods himself, the trader should provide a statement that such a cost will be payable, and that this cost may be high, along with a reasonable estimation of the maximum cost, which could be based on the cost of delivery to the consumer.²⁸

Chapter four: Consumer protection in electronic contracts throughout comparative legislations.

In this chapter we are going to deal with general comprehending of consumer protection in electronic commerce others international legislations in **(section one)** and also we deal with consumer disputes resolution in **(Section two)**.

²⁷ DIRECTIVE 2011/83/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

²⁸Official Journal of the European Union L304/64 dated in 22-11-2011

Section one: General Comprehending of consumer protection in electronic commerce others international legislations.

As early 1998 OECD (organization for economic co-operation and development) recommended that the same level of protection provided by the laws and practices that apply to other forms of commerce should be afforded to consumers participating in commercial activities through the use of global network²⁹.

Consumer protection faces a severe challenge from the revolution brought by the internet with regard inter alia to commercial communication and contracts concluded at distance. The applicability and effectiveness of traditional rules of consumer protection in the online environment is limited traditionally consumers were those within the national borders over which the state and its policy were sovereign. Traditional policy is not easily applied to every day consumers who are players on the global market even when that market exists in the real world with the development of an invisible world in which consumers from all corners of the globe do business difficulties in implementing traditional law are exacerbated.

The current legal system protect consumers in a variety of ways specific legislation has been passed and institutions have been created to implement policy³⁰ but these measures cannot sufficiently provide one for all protection to consumers. Consumers today still face a lot of difficulties or unfair treatment in transactions. They are pressured by strongly organized production and distribution groups³¹ who exert more control than consumers do over market conditions³².

For better or worse electronic commerce is modifying the way consumers transact. With help of the internet business is piercing borders and offering consumers greater access to goods and services at lower prices. Online companies are trying their best to attract and retain consumers³³.

Consumer are in comparatively better position than companies³⁴ according to the media stiff merchant competition has offered consumers the upper hand in online transaction, especially in the area of sales and services³⁵ they are certainly being provided with more opportunities to participate in economic decision making and implementation through which they can protect themselves some suggest consumer self-help as an avenue for consumer protection³⁶ this is understandable since Internet users label themselves as "netizens" or

²⁹ OECD, DSTI/CP (98)4, April 1998, Section 27 available in <http://www.oecd.org/official documents/publicdis play document pdf/> hour 22:55 PM date 23-12-2019.

³⁰ Interim Report on New Approaches to consumer law in Canada, Industry Canada, October 1996.

³¹ The Council Resolution on a Preliminary Program of the European Economic Community for a consumer Protection and Information Policy, Official Journal, C092, 1975.

³² Zollers, F.E. Hurd, S.N and Shears, P., "Consumer Protection in the European Union An Analysis of the Directive on the Sale of Consumer Goods and Associated Guarantees", U.P.A.J. Vol. 20. No. 1, P. 99, 1999.

³³ Miller, G. "Clinton Pushes Initiatives for Electronic Commerce", L.A Times, December 1, 1998, AT C3, p. 10.

³⁴ Rice, D.T, "Jurisdiction in Cyberspace which law Apply to Securities Transactions on the Internet?" U. IntEconnL, Vol 21, N°03, P, 589, 2000.

³⁵ Hansell S, "A Feeding Frenzy Made for Consumers" NY Times, 22/09/1999.

³⁶ Pridgen, D, "Wyoming Division Speech: How will consumers be protected on the Information Superhighway?" land and water law Review, Vol. 32 pp253-255, 1997, Frieden R "Does a Hierarchical Internet Necessitate Multilateral Intervention?" N.C.J Int Law and commerce Reg, Vol 26p400, 2001.

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citizens of the Internet world and agree to abide by their own self-imposed rules ‘netiquette’³⁷.

Is it necessary to emphasize consumer protection in electronic commerce since consumers are better protected? The answer is yes, consumer protection policy is needed in the world of electronic commerce for main reasons to facilitate consumer transactions to respond to the increased ambiguity and risk in online transactions to deal with market failure to protect consumer interests in the formulation of legislation regarding internet transactions act (UCITA), Uniform Electronic Transactions act (UETA) United Nations Commission on International Trade law (UNCITRAL) Model law on Electronic Commerce³⁸.

Acknowledging the important role electronic commerce shall play in the coming economic world and the necessity of consumer protection in electronic commerce many countries have set up commissions to study possible ways of realizing such policy. On December 14, 1998 the federal Trade Commission (FTC) announced that it would organize a workshop on consumer protection in the global electronic marketplace³⁹; its work in protecting consumers online was highlighted in the first annual report of the US Government working on electronic commerce.

Section two: consumer protection in dispute resolution with the internet as medium.

There are various legal systems in place to protect consumers; however, consumers still face a variety of problems. For example, they do not have enough voices in the market and often have difficulties in understanding contract terms. More importantly consumers still do not always have effective methods for asserting their rights and resolving disputes⁴⁰.

Businesses have long acknowledged that information distribution is very important to their survival because without relevant knowledge at hand consumers may choose not to spend money on particular products or services in consequence they struggle to make themselves and their products known to consumers using all available forms of communication, radio, television, newspapers, magazines and billboard.

However, the relatively high cost of advertising through the media mentioned has largely limited the scope of information presented. Most of the time only a small amount of information can be conveyed.

This issue is less important for those researching simple products or products about which consumers generally have a fair amount of knowledge but when it comes to more complicated products or services the lack of information available has adverse effect on

³⁷Orourk, M.A. ‘Fencing in cyberspace Drawing Borders in a Virtual World’ *Minn L. Rev.* Vol. 82, p 609, 1998.

³⁸Zain S, ‘Regulation of E-Commerce by Contract is it fair Consumers?’ *University of west los Angeles law Review*, Vol. 31, PP.166-170, 2000.

³⁹ FTC to study consumer protection in International electronic commerce, *Tech law Journal* <http://www.techlawjournal.com/internet/81215.htm>.

⁴⁰Maggs, GE, ‘Internet solutions to consumer protection problems’ *South Carolina Law Review*, Vol. 49, p.889, 1998.

consumer confidence with doubt in mind customers may fail to make a transaction or worse they purchase some dubious products over which disputes then immediately arise.

Often when important or expensive products are exchanged a formal contract stipulates and duties of each party. The general practice is that a standard contract shall be deemed to have been agreed upon by both parties once consumers accept the product. As a consumer you rarely need to negotiate the detailed provisions in the final contract because most of such contracts are pre-prepared even put in the boxes containing products you purchase may seem counterintuitive but there is no better realistic alternative.

Various scholars debate the appropriateness of standard contracts⁴¹ but the fact is that these contracts are widely used in modern commerce and the burden of risk is undertaken by consumers no matter how unfair doing so may appear. When disputes arise courts give preference to business concerning such contracts.

Consumer protection in electronic commerce dispute resolution

The most effective way of protecting consumers in dispute resolution is to provide them with access to redress and presumably with the rise in the use of the internet exchanging ideas and complaints consumer protection in the legal sense. In former legal regimes many national consumer protection laws even prohibited arbitration in disputes arising out of consumer transactions:

The United States Practice

The US has relatively few consumer protection laws⁴². However an agency called the FTC (The FTC is the only US agency at the national level with a broad consumer protection law enforcement mandate it also enforces a variety of antitrust laws as part of its mission to maintain competition) has been protecting consumer online since 1995⁴³. One of its core missions has been to promote the efficient functioning of the market place by protecting consumer from unfair or deceptive acts or practices and increasing consumer choice by promoting vigorous competition⁴⁴.

The European Union Practice

EU policies value consumer protection. It is an important concern of the European Economic Community (EEC). Which enacted the first consumer program in 1975. This policy was further boosted by the introduction of the 1986 council resolution recognizing the difficulties encountered by consumers invoking guarantees on products purchased in other member states and the single European act of the mid 1980 which proposed significant legislative procedures that have paved the way for improved consumer protection⁴⁵.

⁴¹Meyerson M.I., "efficient consumer from contracts, law and economics meet the real world" Georgia law review, Vol 24, N°03 pp.597-600, 1990 Rakoff T., "Contracts of adhesion an essay in Reconstruction" Harv. L. Rev, Vol. 96 N°06 p.1173, 1983.

⁴²Maggs, G.E., "Internet Solutions to consumer protection problems" South Carolina law review, vol. 49 p. 889, 1998.

⁴³ FTC, anticipating the 21st century, Consumer protection policy in the high-tech Global Market place, Vol.2 (last modified November 1996)

⁴⁴Hossein Kaviar, consumer protection in electronic contracts, Journal of e-technology, vol 2, N°02, June 2011, P98

⁴⁵Micklitz, H.W and Weatherill S "consumer policy in the European community" Journal of consumer policy, vol.16 p295, 1993.

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EU measures address the consumers need for easily accessible legal remedies by adopting a high level of consumer protection and incorporating pro-consumer minimal directives within EU policy. Two notable conventions have focused on the issue of dispute resolution at the EU level the 1980 Rome Convention on the law applicable to contractual obligations (Rome Convention) and the 1968 Brussels Convention on jurisdiction and enforcement of judgments in civil and commercial matters (Brussels Convention).

New threats to consumer protection call for new protective rules and measures we should recognize the fact that better consumer protection in online environments shall have positive impact on the further development of electronic commerce and thereby on merchants. Generally Speaking if electroniccommerce is to thrive consumers must be provided with at least the same guarantees they would be provided within the more traditional marketplace⁴⁶.

The Great Britain Union Practice

The Great Britain their policy in protection of consumer had another shape the electronic commerce directive regulation 2002 'the e-commerce regulation' which implement the EU electronic commerce directive affect all companies that provide "Information society service" which is defined as: "Any service normally provided for remuneration at a distance by means of electronic equipment for the processing conclude digital compression" and storage of data at the individual request of the recipient of the service"⁴⁷ following the introduction of the EU consumer right Directive in 2014 the UK was required to implement national laws to incorporate this directive by July 2014 a draft consumer rights bill was prepared to achieve this but given the scale of reforms and repercussions on existing consumer right law it was apparent it was apparent that it would not be possible to finalise the act by this deadline but in general speaking we see that uk electronic commerce law gives granites to the venerable consumer In electronic contract.

Conclusion

All in All Through the foregoing, we find that the Algerian legislator, through Law No. 09-30 related to consumer protection and fraud and Law No. 18-05 on electronic commerce, imposes a sets of obligations on the intruder, perhaps its most important commitment to the weak consumer obligation of information in the contract with the characteristics and features of the good or service that the consumer acquires Either through digital media such as the internet (buying and selling) via platforms, where we find that the legislator Algeria went in the same direction and direction that global legislation was taken like Britain, France, and the United States of America and approved civil penalties (compensation) to redress the damage that occurred to the consumer due to Its defective commodity or service and penal sanctions (incarceration and fine) in addition to an administrative penalty that amounts to closing the platform for the electronic resource in other hand we find that the legislator through the aforementioned legal texts has provided protection for the electronic consumer in the two stages of contract formation and contract implementation.

⁴⁶ Baker Sand France, "Taming the Wild WEB: Without strong laws the nets Growth will be stunned" business week October 4.1999 p154.

⁴⁷ Luke Arnold and David Garvey, E-commerce and consumer protection, Laytons solicitors, 2018, p. 05.

Approaching the end of the twentieth century people witnessed the rapid development of a digital economy which overturned normal commercial transactions. To fully appreciate the legal complexities of regulating this economy one must first understand the magnitude and nature of the internet which justify the policy of self-regulation and international orientation these two policies are closely related and can never be separately discussed. They can on the other hand be easily distinguished from the policy of consumer protection the first two policies define the procedural aspects of the new mechanism the latter one concerns the substantial side.