

Selling by Description Through Electronic Advertising: Guarantees and Mechanisms to Protect Qualified Persons From Misleading Jurisprudence and Law

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Abstract

The resurgence of the digital economy hinges on the e-commerce provider's adherence to numerous legal and regulatory ethical principles. While the appeal of e-commerce has fueled the growth of digital shopping, it has also led to a troubling trend where digital merchants, driven by sheer greed, have increasingly adopted misleading deceptive product descriptions to entice consumers into making purchases. As a result, these consumers often find themselves victims of transgressions that are incompatible with the principles of Islamic jurisprudence and the Algerian electronic commerce law

Through this research, we will perform a comparative analysis of the protective guarantees and mechanisms enshrined in both Islamic Sharia and Algerian e-commerce legislation for protecting consumers from fraudulent enticement, deception, and misleading advertising, which are an illegal form of what contemporary jurists term "sale by description." Using a descriptive-analytical method, the study revealed that, for all its contemporary relevance, the subject finds foundational principles in Islamic jurisprudence. Furthermore, it reveals a significant alignment in the protective frameworks of both systems, notwithstanding differences in qualifying the infringement and its punishment. The study culminates in a series of practical recommendations aimed at mitigating the transgressions of e-commerce merchants

Keywords: Selling by description; Misleading advertising; Deception in e-commerce

Introduction

The electronic revolution had a great impact on many traditional concepts, especially with the spread of the use of the Internet, as the virtual world became a fertile field for electronic commercial marketing. New types of electronic commerce transactions appeared, competing with real-life commerce, so the consumer could travel or sail without the need to purchase tickets, nor He travels any distance, and acquires his belongings that reach him home without trouble, in exchange for paying the price and the cost. With the increase in commercial activity in the digital world, new and emerging crimes of an electronic nature that were not known before have emerged, simulating and matching crimes existing on the ground. The matter required the jurisprudence of jurists in these issues and controlling them with legal controls, since Islamic law is valid for all times and places, and this undoubtedly makes the door of jurisprudence open to those who meet the conditions for diligence. In countries governed by man-made laws, it was also necessary for the state to intervene to control this type of trade in

order to avoid further chaos. This is what made Algeria follow suit by issuing Law 18_05 to regulate electronic commerce, protect the parties to the contract at all stages and phases of digital commercial dealing, and put an end to violations that may occur.

The Algerian regulator conditioned the commercial transaction via electronic communication on the electronic supplier submitting a visual commercial presentation with certain specifications. Given the nature of humans, it is not conceivable that every electronic supplier will adhere to these conditions. The supplier may promote a product with good specifications, while you find it delivering it to the consumer. Another commodity with lower quality specifications and at the same price through advertising, and this makes the consumer a victim of fraud practiced by the supplier with the aim of profit. On the other hand, we find that the jurists spoke about the so-called sale of absent property on the basis of the description, and this issue allows the diligent person to measure and adjust to keep pace with developments, and gives the rulers the authority to control and protect the interests of the people, so the problem at hand is :

To what extent are the guarantees and mechanisms stipulated in both Islamic jurisprudence and the Algerian electronic commerce law to protect the consumer from the dangers of misleading advertising in selling descriptions?

Answering this question requires using the following sub-questions :

- What are the guarantees that e-commerce guarantees when selling descriptions in both Islamic jurisprudence and Algerian law ?

- What are the mechanisms for protecting the digital consumer from electronic promotion through misleading advertising in selling descriptions in both Islamic jurisprudence and Algerian law?

Importance of research :

The importance of this research is demonstrated by proposing a new form of protection that electronic commercial practices now require, in light of the growing phenomenon of deception practiced on the consumer in the digital space, using professional methods through tempting and seductive electronic advertising at the same time. The cognitive addition of this research is evident in the fact that it addressed the issue from a jurisprudential perspective on the one hand, and from a legal perspective through the Algerian e-commerce law. Civil law is considered the general law and the reference for controlling the actions of individuals in private law .

Research objectives:

The research objectives are as follows:

- Examining how Sharia jurists address the issue of consumer electronic protection from misleading electronic practices as a new phenomenon generated by the technological revolution.

- Explaining how the Algerian legal system confronts the phenomenon of misleading advertising practiced through electronic commerce.

- Balancing what is decided by jurisprudence and law in confronting this widespread phenomenon in the digital space, to limit its growth and its harms and effects on the economy and society.

Approach followed :

Based on the problem posed in this research, I used the descriptive and analytical approach to present the various aspects of protection stipulated in jurisprudence and law to prevent harm from the digital or electronic consumer. In conclusion, I also used the comparative approach to balance the two types of protection, after which recommendations are presented.

2. E-commerce guarantees in Islamic jurisprudence and Algerian law

Trade in its traditional form is considered a profit-generating activity, which is why fraud and deception abound. Electronic commerce, in turn, is not spared from these evils, as the goal is the same: profit. The situation of electronic and traditional traders is the same. Among them are the honest and sincere ones who are looking for lawful gain, and among them are the greedy immoral ones whose goal is gain and do not care about the means to achieve it. And this is the one with whom we take pause, as it poses a great danger to The electronic consumer, because his weapon is deceit, temptation, trickery, and deception, all of which are lethal weapons, and the extent of their lethality can be measured by the number of people who are deceived, and how many of them there are in this era in which religious motivation has weakened and values have diminished. Especially since the ignorant person is not legally excused for his ignorance, as the accountable person is required to have knowledge before speaking and acting: لقوله تعالى: ، (فَاعْلَمْ أَنَّهُ لَا إِلَهَ إِلَّا اللَّهُ وَاسْتَغْفِرْ لِذَنْبِكَ) محمد: 19، What is seen, or rather common, is that many people are jumping into the arms of electronic commerce, while they are ignorant of the postulates in the jurisprudence of sales, not to mention their lack of understanding of the provisions and controls of digital commerce legally, especially since it is also legally established that the ignorant person is not excused by his ignorance of the law. A trader like this would cause harm to himself and others.

In order to regulate financial transactions in light of the digital economy, and explain the provisions and guarantees contained in electronic contracts, and maintain the contract and the contracting parties together, and a statement of the rights and obligations of each of them, I discuss below the guarantees of electronic commerce in jurisprudence and law. In order to regulate financial transactions in light of the digital economy, and explain the provisions and guarantees contained in electronic contracts, and maintain the contract and the contracting parties together, and a statement of the rights and obligations of each of them, I discuss below the guarantees of electronic commerce in jurisprudence and law.

1.2 Provisions of electronic trade and rules for protecting contractors in jurisprudence

E-commerce is considered one of the new issues in this era. It is one of the calamities that were not known in the books of jurisprudence. It is the product of scientific development and industrial progress, such that commercial transactions now take place via digital electronic media. Trade is no longer limited to selling goods only, but it has become possible to sell digital services, and the offer and acceptance have become done through a digital space. Sales are now being marketed through a virtual world, which has its own means and goals. Due to the spread of this new type of trafficking in our time, the scholars of jurisprudence gave its ruling, rooting and detailing its issues and ramifications, since Islamic law is valid for all times and places.

In jurisprudential terminology, the contract has two meanings: a general meaning and a specific one: As for its general meaning, the word is used to indicate a legal act that constitutes an obligation, whether it is done with one will: such as a will and an endowment, or it is done with two wills: such as a sale and a lease ⁽¹⁾ In its specific meaning, it means that the words of

one contracting party are linked to the other in a legitimate manner, and its effect appears in its proper place⁽²⁾.

E-commerce contracts are contracts concluded between two or more parties, based on an offer and acceptance, through many electronic media, and the Internet occupies the forefront of these media ⁽³⁾Therefore, if we came to compare the definition of electronic contracts, with the conventional concept of the contract in its special meaning, we would find that the contract in its special meaning includes the electronic commercial contract, and the only thing that distinguishes the electronic commercial contract is the mechanism used in concluding the contract, which is the electronic media: such as the telephone, fax, and the Internet. The new thing is the exchange of offer and acceptance through electronic means, and for this reason this type of contract is included among the new contracts, because the contract was affected by something that is a product of the era, in line with the witnessed technological development and was not known in the traditional or typical contractual process. This means that the parties to the contract have not changed. There is a person or someone who takes his place who seeks to meet his needs for goods, services or information, and another person or someone who takes his place meets those needs. Based on the fact that the traditional contractual process may be disturbed by the absence of some ethics between the parties and at the site of the contract, the contractual process in its new form was also not devoid of the absence of some ethics generated by the new mechanism. These matters require shedding legal light on this type of development in order to determine its rulings and controls.

1.1.2 Provisions of electronic trafficking in Islamic jurisprudence

Before the light of Islam, the Arabs knew many transactions, but after the mission they approved some of them and prohibited others, and transactions between people continued to keep pace with the development witnessed by them. Trade is considered one of the oldest financial transactions, and in terminology it means changing money through buying and selling with the intention of making a profit ⁽⁴⁾It was approved by Sharia law *حيث قال تعالى: (يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ)* , Accompanying the development produced by the technological revolution was the emergence of electronic commerce. The market was no longer limited to a geographical area. Rather, technology created digital markets in a virtual world, making it easier for people to move around, save time, and facilitate dealing. Trade has become the buying and selling of things denominated in money through electronic means, led by the Internet, through electronic contracts.

What is legally established is that “the principle in transactions is permissibility.” What is meant by the phrase “origin” is the consistent rule and general rule under which many issues fall and only rarely deviate from it ⁽⁵⁾This is provided that there is correct evidence prohibiting it. In addition to this, the intention of the law is to achieve the interests of the people by bringing about benefits and repelling harm, and the reference for considering interests is extrapolation ⁽⁶⁾If the goal of the traditional commercial transaction is to achieve profit and gain, then the commercial transaction in its new form is to achieve profit as well, and this is the preservation of money from the aspect of existence, and it is one of the five goals of Sharia law, and as long as it is permissible in the first form, it is also permissible in the second form, as it was stated in the hadith about Urwa *أعطاه دينارا يشتري به شاة، فاشترى به شاتين، فباع* ⁽⁷⁾: " أن النبي ﷺ (8) "أحدهما بدينار، فجاء بدينار وشاة، فدعا له بالبركة، وكان لو اشترى التراب لربح فيه

The new thing in electronic commerce that is practiced through electronic contracts is electronic media, and it is established in the objectives of Sharia that “the means have the provisions of the objective ‘⁽⁹⁾On this basis, if the contract and commercial activity are in accordance with the intent of the law, then electronic media will take its course. Electronic contracts via the Internet then become part of regular contracts, and the rules and provisions of the general theory of the contract apply to them ‘⁽¹⁰⁾Contracts in Islamic jurisprudence are a way to bring the individual under the provisions of Sharia, the reason for which is to preserve public order and the objectives of Sharia by bringing benefits and warding off harm from human beings. ‘⁽¹¹⁾(). In order to determine the provisions of electronic trading, the Islamic Jurisprudence Council of the Organization of the Islamic Conference discussed in its sixth conference session, during the period extending from March 14-20, 1990 AD, the issue of conducting contracts using modern communication machines, and on the basis that a contract between two attendees requires a union of the council, and the agreement of the offer and acceptance, with no evidence of anyone’s objection. Contracting parties, and continuity between offer and acceptance according to custom, and based on what the jurists proposed, it was decided the following⁽¹²⁾ :

- The contract concluded between two absent persons who are not gathered in one place and neither have eye contact with the other nor hear his words, is concluded when the offer reaches the one to whom it is directed and he accepts it, whether the means of communication is: writing, a letter, or an embassy - the Messenger - which in our era applies to telegraph, telex, fax, and computer screens.

- A contract that is simultaneous in time between two parties far apart in place is considered a contract between two attendees, and the original provisions of the contract theory apply to it.

- If the offeror issues by these means an offer with a fixed period, he is obligated to maintain his offer during that period and has no right to withdraw it .

Jurists excluded from the previous rules the marriage contract due to the requirement of witnessing it, exchange due to the requirement of exchange, and peace due to the requirement to accelerate the capital.

- With regard to forgery, forgery or error, it is due to the general rules of proof.

Based on what was previously explained, and based on the rule of considering consent in contracts, electronic commerce gains its legitimacy from the availability of the element of consent in its contracts, but without violating what the Sharia stipulates that it prohibits⁽¹³⁾.

In addition to the rule of consent, there are things that an electronic commercial transaction should not be devoid of, namely: the integrity of the will from defects, the information of the party to the contracting parties and his innocence from defects, and the obligation to fulfill contracts .

The defects of consent are: coercion, error, fraud, deception, and fraud. If any of these defects are found, it mars the contract and affects its validity. Knowledge of the object is achieved by description and sighting at the time of the contract, or before it at a time during which it is not likely to change. As for fulfillment, it is achieved by delivering the object in exchange contracts.⁽¹⁴⁾

2.1.2 Rules and ethics for protecting electronic contractors in Islamic jurisprudence.

The provisions of the contract and its effects originate from the law of the law and not the will of the contracting parties. The contracting party creates the contract without his will going beyond creating the provisions and effects, in order to establish justice between people, achieve balance between the parties, prevent deception, protect transactions from corruption, and resolve disputes between people.⁽¹⁵⁾ For this reason, many controls and ethics have been established that aim to control and direct the behavior and behavior of the parties to the contract - which are called by several names -⁽¹⁶⁾ In a manner that does not contradict the principle of good faith, which requires a commitment to providing advice and consultation, and a commitment to insight, and these ethics are confirmed in electronic commerce to a greater extent than is the case in commerce in its traditional form, since the buyer or digital or electronic consumer is not able to inspect, inspect and touch the thing sold. Electronically, his will remains a hostage of what the seller displayed, photographed, said, and promoted electronically on the one hand, and on the other hand, a hostage of the policy he followed in marketing his product, since technology has produced and generated products that are similar in specifications but vary in quality, and only the person with experience is aware of that.

Before talking about the provisions and rules that protect contractors, we should talk about the ethics that must be followed in electronic commerce, which is a basic foundation for the electronic commercial transaction to be free of impurities. The electronic trader is a human being, and it is known that the value of a person is in his morals (إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاهُمْ) ، قال تعالى: ، قال ﷺ: "التاجر الصدوق الأمين مع النبيئين والصديقين Ethics must have a belief, so if they come together, their fruit will be the zakat of the soul: sincerity, truthfulness, trustworthiness, decency, piety, avoiding injustice, deceit, and deceit, and avoiding what leads to the forbidden. And whoever raises his soul to this rank, his end will be success in this world and the hereafter (17). والشهداء

Among the rules that protect electronic contractors are the following:

1- Commitment to the principles and provisions of legitimate financial transactions: This includes: the prohibition of usury, the prohibition of deception, fraud, and deception.

A/ Prohibition of usury ، قال تعالى: (وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا) البقرة: 275، The Almighty God forbade usury because it is unlawfully consuming people's money.

B/ Prohibition of fraud, deceit, or fraud: Fraud is the illusion that there is something missing in the merchandise, or concealing the loss of something present,⁽¹⁸⁾ Deception means the use by one of the contracting parties of actual or verbal methods of deception to make the other party believe in things that are not the case in order to force him to conclude the contract,⁽¹⁹⁾ Fraud means the seller concealing a defect in the commodity from the buyer at the time of the contract⁽²⁰⁾ Or doing something that increases the price, even if it is not a defect⁽²¹⁾ All of these are methods intended to mislead the buyer and deprive him of his money unlawfully, and the Almighty God forbade this, saying ، قال تعالى: (وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبُطْلِ) البقرة: 188، It was mentioned in the hadith of the Prophet ﷺ: "المسلم أخو المسلم ولا يحل لمسلم باع من أخيه بيعا فيه عيب إلا بينه له" (22). The digital buyer may give the product desirable specifications, and when he receives it, he discovers its defects that he was not able to see. If the electronic buyer is obligated to purchase the capacity, on the basis that he requested it, the transaction becomes similar to

the contact sale and the sale of the outlet, which require the buyer to be obligated to buy what was delivered to him. They are two types of prohibited sales.

C/ Prohibition of immorality or deception: Immorality in language means deception, and in terminology it is when one of the contracting parties resorts to deception by means of delusion, whether verbal or actual, that leads the other party to be satisfied with what he would not have been satisfied with had it not been for them, and immorality is not permissible as it is a fraudulent and misleading method, and in the hadith of the Prophet ﷺ, "إذا بايعت فقل لا خلاية"⁽²³⁾, There are many means of immorality and its forms, and the most prominent of these forms are: betrayal, deception, deception (increased desire for the product without the desire to buy it), and faking a defect.⁽²⁴⁾

D/ Prohibition of unfairness: What is meant by unfairness is the failure to equate the value of one of the two considerations to the other in compensation contracts when contracting,⁽²⁵⁾ It is of two types: minor and obscene. If the minor is forgivable, then the obscene is disputed. The fairest statement is that it has influence on contracts, and then the wrongdoer has the right to annul it⁽²⁶⁾.

/2 Prohibiting one party from harming the other: This is learned from the hadith of the Prophet ﷺ, "لا ضرر ولا ضرار"⁽²⁷⁾, What this means is that it is not permissible for a person to harm his brother in the first place,⁽²⁸⁾ Harm is injustice, and injustice is forbidden by law. One of the rules established by jurists in this context is "the harm is removed."⁽²⁹⁾ و"الضرر لا يزال"⁽³⁰⁾, و"الضرر الأشد يدفع بضرر أخف"⁽³¹⁾ "بمثله"⁽³⁰⁾, و"الضرر الأشد يدفع بضرر أخف"

These jurisprudential rules, which were decided by jurists, establish the obligation to provide insight and inform the consumer, and not to hide defects, so that he can make the decision to approve or reject with a will that is not flawless. All of these provisions extend to include types of electronic commercial transactions.

Electronic selling is one of the contemporary forms of what jurists call "sale of the absent property according to its description" or "sale according to the description", as they stipulate that the absent property be described verbally or in writing in a way that removes ignorance about the store, by specifying the descriptions and essential foundations. In electronic selling, electronic advertising is used to describe the item being sold, eliminating ignorance and deception, and inviting the buyer to enter into a contract.

2.2 The legal framework for protecting the electronic consumer in Algerian law :

E-commerce is experiencing increasing demand by Internet users, as it has become cross-border, due to the many advantages provided by this type of transactions: abundance of offers and goods, speed of delivery, and reduction of movement. Thus, there has become a vibrant digital life, and the demand for it is increasing with the increase in people coming to the virtual world. E-commerce activity has become competitive with traditional commercial activity, especially after the 2019 Corona pandemic. Quarantine has necessitated alternatives that meet the needs of the individual and avoid loss and recession for merchants, but this digital commercial recovery is fraught with many risks that harm the rights of the electronic consumer, and the latter is every legal or natural person who purchases for the purpose of use a product, whether a good or a service, through means of electronic communication from an electronic supplier, who in turn may be either a natural or legal person who markets or proposes. Providing a product via electronic communication.⁽³²⁾

There have been many international and local efforts to frame e-commerce and establish foundations and principles to achieve electronic legal security, but the noticeable thing is that the consumer was the subject of international and local attention, more than the second party, and this is due to the weakness he suffers in the electronic commercial transaction, as a result of his lack of professionalism.

2.2.1 Foundations of digital dealing.

The consumer was the focus of attention from UN bodies, as the United Nations General Assembly adopted guidelines to protect the consumer who uses electronic commerce, and this was through the United Nations Conference on Trade and Development, which encouraged members to enhance electronic consumer confidence in E-commerce, and protect it strongly through the formulation and enforcement of local laws that reinforce the principles of sound electronic commerce practice enshrined by the Organization for Economic Cooperation and Development, which are: fair treatment, responsible business behavior that protects the consumer from illegal practices, disclosure and transparency by facilitating access to information and avoiding misleading, education. Awareness, privacy protection, and the provision of handling consumer complaints and disputes.⁽³³⁾

The legal system enshrined in the texts of general Sharia, especially the general theory of the contract, contains general principles of law that support trust and honesty in all transactions and actions, work to protect the consumer, and expand to include electronic transactions, and among these principles are :

1- The principle of good faith :⁽³⁴⁾ It is a principle that comprehends all legal actions, controls them in various phases and stages: from electronic negotiation to implementation, and gives them an ethical character, because contracts and transactions in their formation and organization need honesty. This principle is a means of maintaining contractual balance and contractual justice. It avoids breaching the principles of honesty and sincerity, and ensures the stability and continuity of transactions .

- Commitment to honesty and sincerity: Honesty is one of the most prominent manifestations of good faith, and a means of gaining trust, as contracting parties are supposed to behave in the manner of an honest man, and avoid everything that might hinder the implementation of the contract ⁽³⁵⁾With frankness and openness .

- Commitment to seriousness and integrity: This commitment requires transparency, objectivity, and selflessness, bringing in sincere intentions in electronic contracting, and not broadcasting false hopes and false information and data, out of respect for professional customs and customs⁽³⁶⁾.

- Commitment to legitimate trust: It is a feeling generated in the contracting party as a result of sincerity and integrity. Its meaning is that each party knows the true will of the other party, thus eliminating the element of surprise ,⁽³⁷⁾It is therefore a commitment related to the inner will.

- The obligation to provide data and information: It is a consequential obligation that means electronic insight to the consumer with the intention of enlightening his will, and reaching sound satisfaction that leads him to proceed or refrain from contracting, through informing him of essential and secondary data,⁽³⁸⁾The supplier is therefore required to take positive positions and refrain from negative positions regarding what he is promoting.

2- The principle of commitment to ensuring the safety of the product or service : It is an obligation to achieve a result that is obligatory for the professional seller, meaning that he must deliver products or services that do not affect the safety of the electronic consumer. This can only be achieved by respecting the standards specified by law, and he is obligated to take all actions that would guarantee the security of the consumer⁽³⁹⁾ .

3- The principle of commitment to conformity: This principle means the need for the product or service to meet the legitimate desire of the consumer in terms of legally specified standards, which are: nature, type, origin, source, features, composition, identity, usability, risks resulting from use, desired results from it, regulatory features - packaging, date of manufacture, maximum date of consumption, how to use, conditions of preservation, control conducted on it .⁽⁴⁰⁾ This principle requires that the supplier deliver to the electronic consumer the sold item or service, in a manner consistent with what was agreed upon, so that he can benefit from it and achieve the purpose of its acquisition.

4- Obligation to guarantee hidden defects: Guaranteeing hidden defects is a fundamental obligation stipulated by general Sharia and laws concerned with the consumer, and it was decided in order to maintain the contractual balance. In the event of a lack of specifications, or the appearance of defects within a legally specified time frame, the supplier is in breach of his obligation and must replace or repair the product or return the price to its owner⁽⁴¹⁾.

2.2.2 Digital transaction guarantees.

Informatics has become an imperative, and it has become imperative for countries to keep pace with technological development, benefit from it, control it, control legal legitimacy in the digital environment, and combat acts of aggression that disturb its peace, especially since the digital environment has provided spaces for shopping. Due to the large number of visitors to these spaces, electronic commerce has rebounded rapidly and significantly, but this virtual world has also not been spared from abuses. Electronic transactions within the digital community have been surrounded by many risks and challenges, and then the idea of ensuring protection emerged, which resulted in methods that were not common in traditional commercial activity. In order to preserve contractual justice, we are in need of digital legal security that keeps pace with the transformation taking place, maintains security, and achieves stability and reassurance for digital customers.

In line with the development witnessed in the digital world, to preserve legal rights and positions, to address violations, and to provide a legal climate that regulates digital commercial transactions, Algeria in 2018 issued a law related to electronic commerce, which is Law 18_05 .⁽⁴²⁾ Through it, the Algerian law sought to subject this commercial activity, and those dealing with this new formula, to the law, in response to principles recommended by international bodies, especially the United Nations Committee on Trade and Development, to curb fraud and abuse that may be practiced against the consumer.

High-quality goods are offered through the digital space by professional merchants, with tempting prices and offers that compete with goods offered in the traditional market. Therefore, the aforementioned law, along with previous texts, provides guarantees that establish legitimacy and ethical use, control competition, protect the consumer in the negotiation and implementation stages, enhance his confidence in electronic contracting, and encourage him to undertake it. Among the guarantees stipulated are the following:

1/ Commitment to electronic advertising: In light of the missing balance between the merchant and the consumer in the field of electronic commerce, the law stipulates a commitment that provides informational insight and forces the parties to the contract to adhere to it. It obliges the supplier to provide information about the product, during two stages:

-Before the contract: Under which the debtor is obligated to inform the creditor during the negotiations stage of all essential information, via electronic means, in good faith and with transparency,⁽⁴³⁾ In light of this, the decision is made to enter into a contract and its fruit is satisfaction .

-When executing the contract: This is called the post-contractual obligation, and the supplier must, upon implementation, provide the consumer with the necessary information related to how to use it, the potential risks, and the precautions that must be taken so that the consumer can enjoy the good sold in a safe manner .⁽⁴⁴⁾

2/ The right to verify and confirm: Under this right, the supplier is obligated to enable the consumer to review the terms of the contract and verify the contents of the order: product information, services, required quantity, unit price and total price, before pressing the final approval button, so that he can amend, correct or cancel the order, provided that the fields do not contain data that directs the will of the consumer, and this is undoubtedly the case. It provides more protection for his will⁽⁴⁵⁾ .

3/ The right to withdraw from the performance of the contract: It is a right that is generally enshrined by law in favor of the consumer without being specified in the electronic contract,⁽⁴⁶⁾ It is a means that enables the consumer to unilaterally reconsider the commitment he had previously made to the supplier of the commodity,⁽⁴⁷⁾ This indicates that he has withdrawn from purchasing the commodity without a specific reason,⁽⁴⁸⁾ The reason for this is that the acquisition was made based on the image shown in the visual commercial display, so the consumer is proven to have the right to express a will that contradicts the commitment he expressed the first time, so he terminates the contract by unilateral will,⁽⁴⁹⁾ Without legal consequences, within legally specified deadlines.

3. Attracting the will through misleading advertising and ways to protect the consumer, according to jurisprudence and law

Technology has opened up modern mechanisms and techniques for electronic marketing to suppliers, and in the face of the inability to physically inspect the goods by the consumer, electronic advertising or advertising has become a very important promotional means, and in the face of the lack of knowledge of the electronic customer, the ambition of suppliers for abundant profit, their desire to win more customers, and the great competition among them to sweep the market, it has crept into the horizon of space. Digital violations and actions that contradict the established guarantees resulted in the consumer falling victim to acts of aggression, fraud, and misleading advertising. To force him to contract, and out of greed for his money; This undoubtedly requires protective intervention to repel these new forms of acts of aggression against rights and interests in the field of electronic transactions, in order to achieve digital security and prevent economic and social unrest. This intervention was according to two types, one non-judicial, and the other judicial, whether in jurisprudence or law.

3.1 Electronic advertising as a means of misleading propaganda

The electronic promotion process is based on the supplier of the commodity's use of a communication channel through which he seeks to win over the consumer and influence his desires and conviction.⁽⁵⁰⁾ The communication channel used is the Internet. The means of enlightening the will, with the aim of marketing the product, is: electronic advertising, which is defined as an advertisement made by means of electronic communications, and aims to promote the sale of a product⁽⁵¹⁾.

Electronic advertising has a prominent role in promoting products, just like commercial advertising in its traditional form. The difference between them lies in the means of conveying the offer. For this reason, the preparation of commercial advertising in its modern form was based on two very important elements: excitement and attractiveness⁽⁵²⁾.

It is assumed that electronic transactions are governed by ethics that guarantee integrity so that there is no violation of the consumer's insight, but in the face of the weakness of religious motivation and the greed of some suppliers, the principles of legitimate competition were violated through many seductive methods, so seductive, misleading, and illegal methods were used during advertising to promote the goods and present them in an unparalleled image. With the use of influencers, celebrities, and suggestive, delusional, or false expressions during the advertising display, to persuade consumers to purchase their products, for this reason, misleading electronic advertising was criminalized, as its goal is to falsify facts and deceive and deceive the consumer. Cheating, deception, and fraud are all behaviors that are rejected by jurisprudence and law, due to their bad effect on the will and their opposition to the principle of good faith. Accordingly, misleading advertising is any offer intended to deceive the recipient with statements that are inconsistent with the truth, or with correct data formulated in terms intended to mislead the consumer, whether the matter is related to the definition of the product, its quantity, characteristics, or availability.⁽⁵³⁾ The following is an explanation of how to control the issue of electronic advertising misleading in Islamic jurisprudence and the Algerian legal system that concerns the consumer.

3.1.1 Electronic advertising goes from a mechanism for selling based on description to a mechanism for deception and misleading.

The validity of Islamic law for all times and places makes its provisions and rules capable of keeping pace with all developments, and organizing them in light of the jurisprudence of jurists in legislative texts and the fundamental, jurisprudential, and purposeful rules deduced from them. Hence, electronic commercial activity, despite its modernity, does not mean in any way that the legal rulings are inadequate in adapting the provisions of electronic commercial transactions despite their modernity.

Sales in Islamic jurisprudence are divided into three categories: the sale of a present and visible item, the sale of an absent and described item, and the sale of a item described in a guaranteed manner. What concerns us is the item described and absent that is present in the contract and in the ownership of the seller. Its formula and method of sale can only be made with an accurate description and truthful information, and it creates the obligation that arises from the absolute contract.⁽⁵⁴⁾

Since electronic commerce is based on electronic advertising, which is a means of informing consumers of the characteristics and features of products, their essential qualities and

Some of the jurists realized the lack of strength in the opinion of those who say that it is not permissible to sell the non-existent at all, due to the existence of a type of contract in which the subject matter is non-existent, but it is permissible with discretion, such as leasing and istisna. The reason for this is the absence of an explicit text prohibiting the sale of the non-existent at all, not to mention that deception does not occur in the sold item that has a definite existence in most cases. Rather, deception occurs when the non-existent item is sold and the item sold is of unknown existence, because there is no deception in the event that the thing sold is definite in existence ⁽⁶⁵⁾ The rule in selling non-existent things is: “Any non-existent thing whose existence is unknown in the future is not permissible to sell, and every non-existent thing

that is certain to exist in the future according to custom is permissible to sell it ‘⁽⁶⁶⁾ My chosen opinion is the opinion of those who say it is permissible, because it agrees with the consensus of the Companions on the permissibility of selling an absent person who is able to deliver it, with the option of seeing the buyer being established.⁽⁶⁷⁾

The mission of protection in Islamic jurisprudence includes protecting the consumer from all dangers or injustice that befalls him. For this reason, advertising must be characterized by honesty and avoid fraud and deception, and describe the item in an accurate way that reveals it as it really is, so that ignorance is removed and we remain in the shadow of the slight deception that the majority of jurists have overlooked. However, if electronic advertising is printed By misleading through deceit, fraud, lying, or dishonesty, or deception through exaggeration in praising the product, the basis of ignorance is achieved in the appraiser’s own soul, so we are in the process of gross deception, which invalidates the contract, in order to prevent the evils that bring harm, injustice, and disputes, and to bring about the permanent interests of ownership and gain, and to preserve the general order of the nation.

3.1.2 Electronic advertising from a legal means of protection to a means of deception

Electronic advertising or promotion is a tool in the hands of suppliers, based on the Internet, and the original is to provide insight to the consumer, and the law stipulates the necessity of controlling it with certain controls, which are :

- Clarity and specificity, specifying the person for whom the message is designed,
- Not to violate public morals and public order,
- Statement of the purpose of the commercial, promotional, or competitive offer: discount, reward, or giving gifts.
- That all conditions that must be met in the commercial offer are neither ambiguous nor misleading .
- The necessity of providing an electronic legal system that enables the consumer to voluntarily express his desire to receive advertising via electronic communication without justification or expenses ,
- Preventing the publication of advertising promoting a product or service whose marketing is prohibited by the legal system⁽⁶⁸⁾ .

The Algerian legislator did not specify the legal nature of electronic advertising, whether it was an invitation to negotiate or an offer. However, he specified the necessary conditions and controls that must be present in the offer, and made the purpose of all of it to reveal the ambiguity of the product. Perhaps he wanted to activate the discretionary authority of the judge of the matter, given that an offer without a price in light of traditional commercial transactions is considered an invitation to contract. However, if the price is mentioned, it is either a firm or suspended offer in which the seller reserves the right to review the price.⁽⁶⁹⁾

Electronic commercial advertising may be misused, so that the electronic commercial transaction becomes unfair. This is achieved in two ways, either by false advertising or misleading advertising. The first is with false information that is contrary to the truth and reality with the aim of misleading the consumer, and the second is by omitting one of the essential characteristics of the goods, using suggestive phrases. It can take many forms, including exaggeration in description and praise in a way that leads to deceiving the consumer. The assessment of deception is subject to society's culture, customs and traditions, in addition to the

circumstances and conditions of advertising⁽⁷⁰⁾ ‘Misinformation occurs in one of the following aspects:⁽⁷¹⁾

- Misleading regarding the intrinsic elements of the product promoted electronically: the nature of the product, its quality, components, characteristics, weight, source, availability, and quantity.
- Misleading regarding elements that are external to the product promoted electronically: price, condition of sale, shelf life, purpose of use, claim of exclusivity, use of misleading, suggestive expressions.
- Misleading in names and trademarks

3.2 Ways to protect the consumer from electronic commercial deception in sales based on description in both Islamic jurisprudence and the Algerian e-commerce law

The guarantees granted to the consumer regarding misleading electronic commercial practices require the responsibility of suppliers, and we will then need mechanisms that enshrine these guarantees, achieve justice and digital security, and protect the consumer from all actions that harm his money. This can only be achieved through texts that rebuke and deter any transgression that would disturb the economic and social balance and stability in society. Islamic law has provided for the protection of the digital consumer from misleading electronic commercial practices, a judicial and a non-judicial type, and Law 18_05 in turn approved two mechanisms to protect him from supplier abuses, one administrative and the other judicial, and this is explained below.

3.2.1 Ways to protect the consumer from deception in sales based on description in Islamic jurisprudence

The guarantees granted to the consumer during his electronic shopping alone are not sufficient, as they inform him of his rights, but there is no doubt that any right is vulnerable to attack at any moment, and the aggressor, if he does not find anyone to stop him from his attack, will continue with his violations, and this will undoubtedly perpetuate chaos, as the victory will be for the strongest. For this reason, it is necessary to provide mechanisms that protect and enshrine rights, and suppress Abusers. In Islamic jurisprudence, two mechanisms were established, one non-judicial and the other judicial.

1/ Non-judicial protection:

Islamic law provides those who fall victim to misleading electronic advertising a number of means and protective mechanisms, most notably the following:

A/ The cancellation option system: It is one of the provisions that is intended to resolve the dispute in commercial transactions between two sales. It is decided when a reason or legal justification is proven that allows the cancellation. Among the available options are: the defect option, the sight option, the description option, or the defect option ‘⁽⁷²⁾It is automatically confirmed to the buyer, and if a dispute arises, arbitration or the judiciary has the right to decide on it.

-The defect option: It requires that the sold item be safe from anything that would cause a decrease in value or lose part of the benefit or purpose that the buyer seeks to achieve from the sold item. The buyer has the right to cancel or sign the contract.⁽⁷³⁾

-Description option or defect option: This means selling property with a desirable description, then it appears that the item sold is devoid of the description .⁽⁷⁴⁾The description is

of two types: a description that is proven by stipulating it in the thing sold, and a description required by custom and habit. If the buyer finds the thing sold to be in a condition other than the desired condition or custom, he has a choice between annulment or signing the contract and taking the thing sold for the agreed-upon price .

-The deficiency option is an option in which the buyer is guaranteed to return the sold item due to a deficiency that contradicts what the seller committed to, conditionally or customarily, at the time of his warranty.⁽⁷⁵⁾

-Option to see: It is a right by which the buyer is entitled to cancel or sign the contract upon seeing the sold item, if he did not see it at or before contracting.⁽⁷⁶⁾

-The option of deception: The online seller may praise a specific product through electronic advertising, and portray to the consumer that the quality of the product and the price are unmatched anywhere, and upon receipt it becomes clear to him that he was deceived, and that the price is not equivalent to the appraiser,⁽⁷⁷⁾ Then the consumer has the right to cancel the contract and return the sold item to its owner on the basis of gross unfairness, and the basis for assessing gross unfairness is what deviates from the norm.⁽⁷⁸⁾

-The option of deception: The temptation of the consumer through electronic advertising, when describing the item that is absent from him, whether this was done in reality to make the contract appear in a way different from what it is in reality, or by words through false inducements or by concealing the truth by concealing defects, proves to him the right of choice. If he wishes, he can cancel the contract, and if he wishes, he can fulfill it⁽⁷⁹⁾

B/ Self-censorship or self-inspection: This mechanism stems from the Muslim individual's evocation of God's eternal monitoring of him in all his affairs, as God Almighty said ﴿وَلَا تَعْمَلُونَ مِنْ عَمَلٍ إِلَّا كُنَّا عَلَيْكُمْ شُهُودًا﴾ يونس: 61، and instils in it faith in reward and other judgment, as God Almighty said ﴿يَوْمَ تَجِدُ كُلُّ نَفْسٍ مَّا عَمِلَتْ مِنْ خَيْرٍ مُحْضَرًا وَمَا عَمِلَتْ مِنْ سُوءٍ تَوَدُّ لَوْ أَنَّ بَيْنَهَا وَبَيْنَهُ أَمَدًا بَعِيدًا﴾ آل عمران: 30 Therefore, you find a Muslim feeling God's monitoring of him at all times and in every place, in secret and in public, and if he makes a mistake and is overcome by his desires and whims, he repents and withdraws from his mistake, and the reason for this is holding the self accountable, fearing the afterlife.

C/ Hisbah: It is a religious mission based primarily on enjoining good and forbidding evil. It was initiated to direct and instruct people to do good and prevent harm from them,⁽⁸⁰⁾ This is in accordance with the words of God Almighty ﴿كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ﴾ آل عمران: 110، It is the position of a servant of the judiciary,⁽⁸¹⁾ The areas of hisbah are multiple, as it includes everything that is not within the jurisdiction of governors and judges. You will find the hisbah enjoining what is right and forbidding what is wrong in everything that belongs to the rights of God (worship, prohibitions, transactions), or the rights of human beings, or what is common between the two rights. Deception, fraud, and deception are included in sales, and monitoring the markets is included in the prohibition of evil in transactions,⁽⁸²⁾ The Hisbah system has a major role in preserving money, both from the aspect of existence and from the aspect of non-existence. This undoubtedly protects the rights of the consumer and achieves fair competition.

2/ Judicial protection:

Although Islam educates souls and fills them with fear, the Muslim remains not infallible from falling into sin, no matter how great his faith is, as the possibility of disobedience and disagreement from him remains small and rare. For this reason, the necessary provisions were enacted to establish justice, to settle disputes and disputes.⁽⁸³⁾

In Islamic criminal jurisprudence, crimes are divided into crimes with predetermined punishments and crimes with non-prescribed punishments. The first is specified by God Almighty, and the second requires discipline in matters for which there is no punishment or expiation, and is applied to every sin or disobedience⁽⁸⁴⁾. Electronic advertising deception is classified as a discretionary crime. Deception, misleading, deceit, and deception are all sins that Sharia has forever forbidden, and it threatens their perpetrator, and entrusts the punishment for these discretionary crimes in lightness or severity to the guardian, as dictated by the requirements of the time, place, and circumstances surrounding the case in question.

3.2.2 Ways to protect the consumer from misleading electronic commerce practice in the Algerian e-commerce law.

There were local efforts to protect the consumer from violations and illegal electronic behavior, as two ways were devoted to enable the consumer to protect his rights, which are:

1/ Administrative protection:

The law qualifies agents belonging to the special oversight bodies, affiliated with the departments in charge of trade, which ensure consumer protection, and by way of specialization, along with officers and agents of the judicial police, from inspecting violations, from proposing a conciliation fine in cases other than recidivism, and deciding on a reduction of 10% upon its acceptance by the supplier.⁽⁸⁵⁾ This is a form of restorative justice or criminal mediation whose purpose is an amicable settlement without resorting to the judiciary, provided that supervision and inspection are carried out in accordance with the applicable regulation for the protection and suppression of fraud in light of traditional commercial practice, i.e. Law 09_03 and according to the same conditions and forms.

These agents are employees who are located at the central, regional or local administration level. In carrying out their duties, they are committed to the legal texts that specify their tasks and the limits of their regional specialization.

2/ Judicial protection:

Deceptive commercial practice is considered a violation of the conditions of electronic advertising. It is a crime and can be classified as a misdemeanor punishable by law with a financial penalty alone. The supplier who violates the controls and conditions of electronic advertising is subject to a financial fine as an original penalty, which is either in the form of a conciliation fine of no less than 50,000 DZD, or in the form of a penal fine if the file is referred to the authority. The relevant judicial bodies are legally authorized to carry out this procedure, as the ruling judge has the authority to estimate its value, and the range of its estimate ranges between 50,000 DZD and 500,000 DZD, with the possibility of suspending the supplier's access to all electronic payment platforms as a complementary penalty, and this is without prejudice to the victims' right to compensation, and in the event of a recurrence of the same assault within a period not exceeding one year, the amount of the penal fine will be doubled.⁽⁸⁶⁾

The conditioning of the crime by the sentencing judge depends on the availability of two basic elements in addition to the legal element: the material element and the moral element .

Material element: The presence of an electronic advertisement that contains misleading information about the goods or services being promoted, as indicated above .

The moral element: that there is bad faith and intent to deceive in the advertising content displayed electronically, to attract the consumer and force him to contract, and this is evident through the knowledge and will of the supplier; However, it is noted that the Algerian legislator did not refer to this in Law 18_05. Is it understood from this that it implicitly assumes the bad faith of the supplier expressed in electronic advertising due to his professionalism and professionalism? He is not then excused for his ignorance of the law, while implicitly acknowledging the weakness of the consumer and his need for more protection in electronic commercial activity due to the difficulty in realizing the reality of the product. In order to maintain economic and social balance; Or does he consider this electronic crime a crime of a special nature governed by special rules of criminalization and punishment? What I am leaning towards is that his neglect of the moral element is due to the two justifications presented together, for the following reasons :

- Strictness and deterrence in dealing with this crime, due to the delay in controlling electronic transactions, and the spread of electronic crimes in society .

- Making the electronic commercial offer a requirement for electronic commercial transactions, enumerating the information that should be included in the offer, but not limited to it. This means that it does not tolerate negligence committed by the supplier .

- Enabling the administration officials who ensure consumer protection from proposing a conciliation fine as an indication that it is a crime of a special nature .

- Abandoning the imprisonment penalty and replacing it with a penal fine as an original penalty, as previously explained above, once the incident is brought before the judiciary, as if the supplier is being punished in the opposite of his goal, which is to make a profit, while granting the judge the discretion to determine whether it is mitigating or aggravating, depending on the personal and objective damages and circumstances.

In addition to the penal protection mentioned above, the law guarantees the aggrieved consumer the right to cancel the contract and return the commodity while claiming compensation for the damages he sustained. This is his acknowledgment of civil protection from misleading advertising, and of the civil liability of the supplier, as a result of his breach of his contractual obligations, and the elements of his contractual responsibility are: error, damage, and causal relationship. As for error, it is the implementation of the obligation in a defective manner that is manifested in misleading by lying or cheating. As for harm, it is spending an amount of money on a product that does not match what is promoted, or does not meet the needs of the digital consumer. As for the causal relationship, it is evident in the process of deception practiced through electronic advertising. In addition to this, the supplier is subject to tort liability for violating the legal principle that requires not harming others ⁽⁸⁷⁾ Enshrined in Article 124 of the Civil Code⁽⁸⁸⁾ .

4. Conclusion

At the end of our research, and after presenting the guarantees for electronic commerce in both Islamic jurisprudence and Algerian law, and the means of protection dedicated within them to confront misleading electronic practices, the following results were reached:

-Despite the fact that the issue is new, Islamic jurisprudence is sufficient to address it, and this further confirms that Islamic law is valid for all times and places, and that electronic sales are considered as absentee sales in the proper manner.

-There are efforts being made by the Algerian regulator to address the issues raised by electronic commerce, but the treatment does not keep pace with the development witnessed by commerce in the digital space, especially since artificial intelligence and deep fakes are being used in this type of commerce, and to date no texts have been issued that address, or reveal the ambiguity of, what has been obscured, or have been commented on on regulatory texts, as they have not yet seen the light .

-In jurisprudence, the provisions of contracting between absent persons, on an absent person with a description, are applied to electronic commerce. Electronic advertising is considered an invitation to contract and a mechanism for removing ignorance from the appraiser, with a fundamental convergence of Law 18/05 with Islamic jurisprudence in terms of removing ignorance.

Similar to the law that makes advertising a commercial practice, we find that Islamic jurisprudence deals with it on the basis that it is an ethical and legal relationship.

-The cancellation options available to the deceived buyer in Islamic jurisprudence are broader than what is available in Law 18/05.

-The foundations of digital transactions find their origins in civil law, as it is general law, and in the legal system concerned with the consumer in light of traditional trade, and most of these foundations find their origins in Islamic jurisprudence.

Electronic advertising is a means of revealing the essence of the product, and a means of attracting the will in both jurisprudence and law, and using it to mislead the electronic consumer is criminal in both, since preserving public order is the goal of both.

The controls of electronic advertising in both jurisprudence and law serve each other and flow in the same direction

Both jurisprudence and law provide two mechanisms to protect the consumer from misleading electronic commercial practice, one of which is judicial and the other is non-judicial, but jurisprudence is unique in self-censorship because Islamic law is unique to the moral aspect and afterlife punishment .

-The misleading electronic commercial practice is classified as a discretionary crime in Islamic jurisprudence, and the matter of determining its punishment is left to the guardian in accordance with what the legitimate interest requires, while the same crime is classified as a misdemeanor and is punished with a financial penalty: it is either a conciliation fine or a penal fine, which can be doubled in the event of a recidivism. If the financial penalty were compared to the legal penalties, we would find that it falls within the discretionary penalties.

-The Algerian legislator dealt with the misleading commercial practice in a special way in terms of the elements of the crime and the punishment, so that he did not tolerate negligence and intentionality in the crime of electronic misleading, as he equated them, which suggests that

he implicitly assumed the bad faith of the supplier, but on the other hand, he dealt with it flexibly in terms of the type of punishment imposed, as it enabled him to obtain restorative justice before resorting to the judiciary, and after resorting to the judiciary he ruled it out. The punishment is deprivation of freedom and he punishes him with a financial punishment, in contradiction to his goal, which is profit.

Recommendations :

Despite the efforts made to control this new type of commercial transactions, there are matters that should be taken into account, which are:

-The necessity of raising electronic awareness and digital consumer culture among the consumer, by including it in academic curricula, and through digital awareness campaigns.

Digital sovereignty requires identifying the digital channels through which this type of activity is carried out, so that it is possible to control supplier behavior, protect the consumer from abuses, and facilitate proof of misleading advertising.

-Creating official specialized digital bodies with a supervisory nature, affiliated with the Trade and Competition Directorates, which undertake the task of issuing a digital certificate of the veracity of the advertising content, which is included at the end of the advertising video, before publishing it in the digital space, to move the electronic contract towards contractual balance .

The specificity of the crime requires the specificity of the judicial investigation, in accordance with the specificity of the judicial authority. According to the establishment of specialized penal centers and the training of digital experts in this field, it is necessary to establish a digital police, to protect the consumer from misleading e-commerce practice, and to eradicate all violations practiced by suppliers, especially manipulating software and algorithms .

Digital commerce is now considered a free profession and is in dire need of professional governance and ethics, platforms for digital complaints, and digital arbitration for small disputes, to reduce the burden on the judiciary.

-It is not fair to hold the supplier responsible, in the absence of intent, if the digital consumer fails to take the initiative to inquire about the essence of the product to reveal it. Good faith and this situation require reversing the burden of proof, as the supplier is obligated to prove the truthfulness of the advertisement, instead of obligating the consumer to prove the misleading, as a penalty for failing to inquire.

-It would have been better for the Algerian law to also address civil protection, its mechanisms and provisions in the same law, taking into account the specificity of the crime, while promoting automatic revocation.

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(4)See: Kuwaiti Ministry of Endowments and Islamic Affairs, Jurisprudence Encyclopedia, 10, p. 151.

(5)Hussam Al-Din bin Musa Muhammad Afanah, They Ask You About Contemporary Financial Transactions, p. 85.

(6)See: Fahman Mujahid Hassan Al-Hanami and others, "Provisions of Electronic Commerce According to the General Rules of Islamic Sharia," p. 136.

(7)Urwa bin Ayadh bin Abi Al-Jaad Al-Barqi, a distinguished companion who was appointed by Omar, may God be pleased with him, to judge Kufa. See: Ahmad bin Ali bin Muhammad Al-Asqalani, edited by: Adel Ahmad Abd al-Mawjoud and Ali Muhammad Muawwad, Al-Isabah fi Taqiz al-Sahabah, vol. 05, p. 96.

(8)Narrated by Al-Bukhari, Book: Al-Manaqib, vol. 3642, p. 695

(9)Mustafa bin Karamatullah Makhdoum, Rules of Means in Islamic Sharia, p. 223.

(10)See: Muhammad Sharif Bashir Al-Sharif, Khalifa bin Abdullah bin Saeed Al-Waeli, previous reference, p. 83.

(11)See: Ramadan Ali Al-Sayyid Al-Sharnabasi, Consumer Protection in Islamic Jurisprudence - A Comparative Study -, p. 23.

(12)See: Resolution No. 54/3/6 regarding the ruling on conducting contracts using modern communication machines, the sixth session of the Islamic Jurisprudence Academy Conference, pp. 1267-1268.

(13)See: Fahman Mujahid Hassan Al-Hanami, previous reference, p. 138.

(14)See: Masoud bin Musa Falusi, Lectures on Jurisprudential Theories, pp. 98-105.

(15)See: Muhammad Al-Zahili, Jurisprudential Theories, p. 79.

(16)What is established in jurisprudence is that there is no disagreement in terminology

(17)See: Al-Hakim Al-Naysaburi, Al-Mustadrak on the Two Sahihs, vol. 2, p. 07.

(18)See: Ibn Arafa, Al-Dasouki's commentary on Al-Sharh Al-Kabir, vol. 3, p. 169.

(19)See: Wahba Al-Zahili, Islamic jurisprudence and its evidence, vol. 4, p. 3069.

(20)See: Ahmed bin Ghanem bin Salem Al-Nafrawi, Al-Fawakih Al-Dawani on Ibn Abi Zaid Al-Qayrawani, vol. 2, p. 80.

(21)See: Mansour bin Yunus bin Idris Al-Bahuti, Kashshaf Al-Qinaa' on the text of Persuasion, vol. 3, p. 213.

(22)Narrated by Ibn Majah, and authenticated by Nasir al-Din al-Albani, Book: Trades, Chapter: Whoever sells a defect, let him explain it, vol. 2646, p. 385.

(23) Narrated by Al-Bukhari, Book: Sales, Chapter: What is disliked about deception in sales, ed. 2117, previous reference, p. 399.

(24) See: Sami Adnan Al-Ajouri, The Contract Theory of Sheikh Mustafa Al-Zarqa - A Comparative Jurisprudential Study -, p. 59.

(25) See: Ali Al-Khafif, Rulings on Sharia Transactions, p. 356.

(26) See: Muhammad Abu Zahra, Ownership and Contract Theory in Islamic Sharia, p. 396.

(27) Narrated by Ibn Majah, and authenticated by Nasir al-Din al-Albani, Book: Al-Ahkam, Chapter: Whoever builds upon him what is harmful to his neighbour, H.R.: 2340, previous reference, p. 385.

(28) See: Ali Haider Amin Effendi, Arabization: Fahmi Al-Hasani, Durar Al-Hakam fi Sharh Majalla Al-Ahkam, vol. 1, p. 40.

(29) Al-Suyuti Jalal al-Din Abd al-Rahman bin Abi Bakr, al-Ashbah wa al-Naza'ir, p. 83.

(30) Ibid., p. 86.

(31) Muhammad Sidqi bin Ahmed, Al-Wajeez fi Ihdāt al-Qāliyyat al-Fiqh, p. 260

(32) See: Article 06 of Law 05_18, Algerian Official Gazette, No. 28, Law 05_18, p. 05 .

(33) See the United Nations document under the symbol: UNCTAD/DITC/CPLP/MISC/2016/1, relating to the United Nations Conference on Electronic Commerce, pp. 3, 8-9, 19.

(34) Article 107 of the Algerian Civil Code, see: Algerian Official Gazette, p. 78, Order 75_58, p. 995 .

(35) See: Yassin Muhammad Jabouri, Al-Mabsoot fi Sharh Al-Law Al-Civil, vol. 02, p. 63.

(36) See: Larbi Belhaj, The legal framework for the stage preceding the conclusion of the contract in light of the Algerian Civil Code, pp. 69-70.

(37) See: Shiraz Aziz Suleiman, good faith in concluding contracts - a study in light of internal laws and international agreements, p. 149.

(38) See: Nazih Muhammad Al-Sadiq Al-Mahdi, the pre-contractual obligation to provide statements related to the contract and its applications to some types of contracts - a comparative judicial jurisprudential study -, p. 87.

(39) See: Ahmed Mawaqi Bennani, Commitment to Ensuring Safety - The Concept, Content, and Basis of Responsibility -, pp. 415-416.

(40) See: Algerian Official Gazette, No. 15, Law 09_03, p. 15. Also: Algerian Official Gazette, No. 28, Law 12_203, p. 19.

(41) See: Article: 379/1 of Order 75_58 amended and supplemented, Algerian Official Gazette, p. 78, op. cit., p. 995, and Article 13/2 of Executive Decree 09_03, Algerian Official Gazette, p. 15, op. cit., p. 15, and see: Article 04 of Executive Decree 13_327, Official Gazette. Al-Jazairiya, p. 49, Executive Decree 13-327, p. 17 .

(42) See: Algerian Official Gazette, No. 28, Law 05_18, previous reference, pp. 04-10 .

(43) See: Omar Khaled Zureikat, E-commerce contract - the online sales contract, an analytical study -, p. 25.

(44) See: Maryam Khulaifi, Commitment to Electronic Media and Transparency of Transactions in the Field of Electronic Commerce, p. 206.

(45) See: Article 12, Algerian Official Gazette, Article 28, Law 05_18, previous reference, p. 07.

(46) See: Article 19/2, Algerian Official Gazette, p. 35, Law 18-09 amending and supplementing Law 09-03, p. 06 .

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- (48)See: Article 19/2, Algerian Official Gazette, p. 35, Law 09_03, previous reference, p. 06 .
- (49)See: Muhammad Saeed Ahmed Ismail, methods of legal protection for e-commerce transactions - a comparative study -, p. 393.
- (50)See: Bashir Abbas Al-Allaq, Basics and Applications of Electronic and Traditional Promotion - An Integrated Introduction -, p. 17.
- (51)See: Article: 06, Algerian Official Gazette, Article 28, Law 05_18, previous reference, p. 05.
- (52)See: Abu Bakr Al-Siddiq Muna, Obligation to inform the consumer about products, p. 167.
- (53)See: Abd al-Fadil Muhammad Ahmad, Advertising Products and Services from a Legal Perspective, p. 237.
- (54)See: Abu Al-Walid Suleiman bin Khalaf, Chapters on Rulings and a Statement of What has Been Worked by Jurists and Rulers, p. 211.
- (55)See: Mahmoud bin Ahmed bin Musa bin Ahmed bin Al-Hussein, Al-Banaiya Sharh Al-Hidaya, edited by: Ayman Saleh Shaaban, vol. 08, p. 81.
- (56)See: Abu Abbas Shihab al-Din Ahmad bin Idris bin Abdul Rahman al-Maliki, Al-Furuk - Anwar al-Buruq fi Anwa al-Furuk, vol. 3, pp. 396-400.
- (57)See: Abu Ishaq Ibrahim bin Ali bin Yusuf Al-Shirazi, Al-Muhadhdhab fi Jurisprudence of Imam Al-Shafi'i, vol. 2, pp. 14-15.
- (58)See: Abu Muhammad Abdullah bin Ahmad bin Muhammad bin Qudamah, Al-Mughni. It was authenticated and its hadiths included: Abu Abdullah Muhammad bin Ali bin Hizam Al-Fadhli Al-Baadani, vol. 7, pp. 37-38.
- (59)See: Abu Al-Walid Muhammad bin Ahmed bin Muhammad bin Ahmed bin Rushd Al-Qurtubi, The Beginning of the Mujtahid and the End of the Muqtasid, vol. 3, p. 174
- (60)See: Abu Abdullah, Muhammad bin Ahmad Al-Ansari Al-Qurtubi, Al-Jami' fi Ahkam Al-Qur'an, edited by: Ahmed Al-Baradouni and Ibrahim Tfayesh, vol. 3, p. 356.
- (61)Narrated by Al-Bayhaqi, Abu Bakr Ahmad bin Al-Hussein bin Ali Al-Bayhaqi, Al-Sunan Al-Kubra, Book of Sales, Chapter: Whoever says it is permissible to sell an absent person, vol. 5, p. 268.
- (62)He is Abu Muhammad Talha bin Ubaidullah bin Uthman bin Amr bin Ka'b. He was killed on the Day of the Camel, on the tenth of Jumada al-Akhira in the year thirty-six (36 AH). See: Ibn al-Jawzi, Sifat al-Safwa, previous reference, pp. 90-91.
- (63)He is the son of Adi Banu Nawfal bin Abd Manaf bin Qusayy, the sheikh of Quraysh in his time, and the cousin of the Prophet, peace and blessings be upon him. It was said that he died in the year fifty-nine (59 AH), and it was said that he died in the year fifty-eight (58 AH). See: Muhammad bin Ahmed bin Othman Al-Dhahabi, Siyar Alam al-Nubala', vol. 4, pp. 242-244.
- (64)See: Al-Sunan Al-Kubra, Book of Sales, Chapter: Whoever says it is permissible to sell something absent, previous reference, vol. 5, p. 268.
- (65)See: Al-Siddiq Muhammad Al-Amin Al-Darir, Deception and its Effect on Contracts, p. 373.
- (66)Ibid., p. 374
- (67)See: Al-Binaa Sharh Al-Hidaya, previous reference, vol. 8, p. 83.

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- (68)See: Articles 30-34, Algerian Official Gazette, Article 28, Law 05_18, previous reference, p. 9.
- (69)See: Anwar Sultan, Summary of the General Theory of Commitment - Sources of Commitment -, pp. 69-71.
- (70)See: Hussein Karkan Hussein Al-Shahmani, advertising deception and its impact on the consumer, p. 507.
- (71)See: Adel Al-Sayyid Muhammad Ali, Consumer Protection from Misleading Electronic Advertisements in Islamic Jurisprudence and Consumer Protection Law, pp. 2025-2029.
- (72)The description option is a term among the Hanafi, and the naqisa option is a term among the Malikis
- (73)See: Ali Al-Khafif, previous reference, pp. 389-391
- (74)See: Saadi Abu Jaib, Al-Qamoos Al-Fiqhi Linguistics and Terminology, p. 126, and Muhammad bin Ahmad bin Abi Sahl Al-Sarkhasi, Al-Mabsut, vol. 13, pp. 20, 68.
- (75)See: Abu Abdullah Muhammad bin Muhammad bin Abd al-Rahman al-Tarabulsi al-Maghribi, Mawahib al-Jalil, Sharh Mukhtasar Khalil, vol. 4, pp. 427-429.
- (76)See: Badran Abu Al-Ainin Badran, History of Islamic Jurisprudence and the Theory of Property and Contracts, p. 532
- (77)See: Ali Al-Khafif, previous reference, p. 356
- (78)See: Mawahib Al-Jalil, Sharh Mukhtasar Khalil, previous reference, vol. 4, p. 472
- (79)See: Wahba Al-Zahili, previous reference, vol. 4, pp. 3069-3071.
- (80)See: Abd al-Rahman bin Muhammad Ibn Khaldun, edited by: Abdullah Muhammad al-Darwish, Introduction to Ibn Khaldun, vol. 1, p. 407.
- (81)See: Abd al-Rahman bin Abd al-Qadir al-Fassi, edited by: Muhammad Farqani, Arjouza fi Ilm al-Hisbah, vol. 1, p. 27.
- (82)See: Muhammad Kamal al-Din Imam, The Fundamentals of Hisbah in Islam - A Comparative Fundamental Study, pp. 97-101.
- (83)See: Abdul Karim Zaidan, The Judicial System in Islamic Sharia, pp. 07-08.
- (84)See: Al-Khatib Al-Shirbini Shams Al-Din Muhammad bin Ahmad, Mughni Al-Muhtaj Al-Muhtaj to Know the Meanings of the Words of Al-Minhaj, vol. 5, p. 522.
- (85)See: Articles: 36, 45-46, Algerian Official Gazette, No. 28, Law 05_18, previous reference, p. 10.
- (86)See: Articles: 36, 45-46, Algerian Official Gazette, No. 28, Law 05_18, previous reference, p. 10.
- (87)See: Anwar Sultan, previous reference, p. 43.
- (88)See: Order 75_58 amended and supplemented, Algerian Official Gazette, no. 78, previous reference, p. 997 .