

NEAR EAST UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
MASTER OF LAWS IN INTERNATIONAL LAW PROGRAMME (LL.M)

MASTER'S THESIS

CONSUMER PROTECTION IN ELECTRONIC COMMERCE:
A COMPARATIVE STUDY

Suhad Miqdad Ayoub

NICOSIA

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PREPARED BY
Suhad Miqdad Ayoub
20144330

SUPERVISOR
ASST. PROF. DR. RESAT VOLKAN GUNEL

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ABSTRACT

Arrange on the technology scientific research in domain of communication and information and the gathering between the appearance of the named information network like (internet) as in predict of contract make for electronic commercial between professional trader and the consumer from another destination by internet web , the relationship between the trader and the consumer is relation non-equivalent because of the big contraction between the both sided in technical efficiency and economic because it done between the specialist scientist with the means of his craft and the ignorance of such fundamentals . The question is in try to answer the study of how we protect the consumer when make the contract one from such contracts of electronic commercial trade? If it were the idea of unbalancing the relationship between the profession trader and the consumer and the necessity of surrender consumer with sufficient protection that is not the modern of idea and not only the shortage on the complete contract of electronic trade it should surrender the consumer with protection of which any kind of contract whatever the in front side is in proficiently adequate with experience and ability of economic except the idea was in look more insides when the contract that done by consumer with the professional trade dose never know and place unknown also and also the of need certainly of the quality that should need only by the value what offered by the proficiently of information that can added of other justifications to insure the consumer . There is no doubt of the electronic trade prosperity and the progress that relies on the range of the clearness of the special legal system that belongs to it and the viability of trust between the dealers with in common subject and the consumer in privately. Therefore consumer protect depend on the subsequent stage of contract but to start

this protection in previous sage to make contract so we divided this study in two categories preceded by primary the chapter that research in the depth of electronic trade justifications of consumer protection of electronic trade contracts but in the first categories we researched in the preceding protection to make the contract in two chapters we traded information enlighten before to protect the consumer through the consumer protection from the falls media also through of impose the committeemen on the professional by surpluses with the information of that enlighten consumer will before the contract . We research in this second chapter the consumer protect during the electronic trade as the second o categories titled in appended protection by contract, therefore we divided into three chapter we inspect in the first chapter the consumer protection force principle impact of powerful committeemen of the contract by the mean of the project of electronic consumer on unfair conditions also through grant the consumer the choice of adjustment of contract after made. The second chapter we displayed for the issuance safety of the electronic consumer. The concluded our subject with the memories of results and the recommendations that concentrate on the invitation of legal destination in Iraq to legislates the rules that belong of protect the consumer in common way and electronic consumer in specially and issued the laws that in necessary of electronic permit and the remove all legal obstacles that can change the prevention of contract make by the internet web in legal impatience of legislative field.

Key Words: E- Commerce, Consumer Protection, Iraqi Law, Directive Law, European Union Law, UITRAL Model Law on e- Commerce

ÖZ

Teknoloji ve iletişim ve bilgi alanındaki bilimsel çalışmalardaki gelişmeler profesyonel tüccar ile tüketici arasında sözleşme yapılmasını internet ağı üzerinden toparlamaktadır. Tüccar ve tüketici arasındaki ilişki, teknik verimlilik ve ekonomide bu tür esaslar konusundaki bilgisizlik nedeniyle her iki taraf arasında büyük daralma olmasından dolayı eşdeğer değildir. Bu tez, elektronik dış ticaretinin sözleşmelerinden bir, sözleşme, yaparken, tüketicinin, nasıl, korunduğunu, cevaplamaya çalışmaktadır. Tüketicinin korunması sözleşmenin ileri aşamalarına dayanmaktadır ama bu korumayı başlatmak için bu çalışma iki kategoride incelenmiştir. İlk bölüm, elektronik ticaret sözleşmelerinin tüketicinin korunması hakkındaki elektronik ticaret gerekçelerini derinlemesine araştırmaktadır. İkinci bölümde, elektronik ticaret boyunca tüketicinin korunması, haksız koşullarda elektronik tüketicinin korunması vasıtasıyla ve sözleşme yapıldıktan sonra tüketicinin dilediği değişikliği yapabilme hakkıyla sözleşmenin güçlü komitecisinin tüketiciyi koruma gücü prensibi etkisi tartışılmıştır. Sonuç olarak, Irak'ta yasal hedef daveti üzerine ağırlık veren öneriler ve sonuçlar tüketiciyi ve özellikle elektronik tüketiciyi koruma kurallarını ortak bir yolla yasallaştırmaktadır ve elektronik izin ihtiyacıyla ilgili yasalar çıkarılmış ve internet ağı aracılığıyla sözleşme yapılmasının engellenmesini değiştirebilecek tüm yasal engeller kaldırılmıştır.

Anahtar Kelimeler:E-Ticaret, Tüketici Koruma Irak Hukuku, Yönerge Hukuku, Avrupa Birliği Hukuku, UNCITRAL e-Ticaret Model Kanunu

DEDICATION

This thesis is dedicated to my Mother, Father, Brother, Sisters for their love and support. And to my wife, who stood by me. She was always there when needed. Her precious advice lightened my way.

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ABBREVIATIONS

B2B: Business to Business

B2C: Business to Consumer

B2G: Business-to-Government

C2C: Consumer-to-Consumer

E-C: Electronic Commerce

E-B: Electronic Business

EDI: Electronic Data Interchange

EU: European Union

G2G: Government-to-Government

JET: Jordanian Electronic Transaction

ISO: International Organization for Standardization

ICT: Information and Communications Technology

IETAES: Iraqi Electronic Transaction and Electronic Signature

KRG: Kurdistan Regional Government

M-Commerce: Mobile Commerce

UAE: United Arab Emirates

UK: United Kingdom

U. S: United States

UNCITRAL: United Nations Commission on International Trade Law

Introduction

Becoming the international information network, (the Internet) is part of our daily life and personal process, because of the abundance of developments and to shorten the time and effort is fast and easy, and despite the fact that the emergence of the Internet four decades ago, but the modern and sophisticated uses of newly started as a result of development in the use of the Internet and its advantages , e-commerce and fall within the scope of this development in matching, which is the infrastructure necessary for the user interaction with the Internet and this structure is composed of a set of documents stored on computers on the Web documents online system called (Home Page). And e-commerce is part of a sophisticated online system which seeks to facilitate the business, out of the term, what it means is to do business through the modern Internet. Latest intense discussions concerning the protection of consumers in e-Commerce causes improvements in legislation. In broad sense, there are two type of guarantees for consumers: commercial guarantees, and legal guarantees. The commercial guarantees are creating remedies for consumer goods or services that do not conform to the seller's express promises about the transaction. The legal guarantees are creating remedies for consumer goods, or services that do not conform to the contract.

It is natural that the successive developments in the electronic offset by the need to have a legal framework that sets out how it works, scope and conditions of, on the grounds that the subject of electronic commerce. This is a day of more placements to raise the legal controversy, through the importance of e-commerce being the last historical developments and technology topics information in the present day, and it was a part of the e-business, so the legal research is of importance to frame technical subject, as this technique is the crossing for the challenges of the

time which is characterized by technological progress. Dealing with E-commerce must be subject to international law as well as the national law of nations, because the e-commerce work does not recognize borders, so the international legislation is framed to ensure electronic work alongside national legislation. The complexity of economic life, explained in does not accept the discussion, that a lot of dealers do not have enough experience to fully enclose the contracts and held them and specifications and disadvantages and the extent of its effectiveness and seriousness, so put modern legislation multiple ways for consumer protection, particularly of the product or the seller vocational professional, and that means commitment flags in the contracts that are remote and private, and the specificity of more electronic contract, a contract that is modern electronic means via the Internet. Especially contracts that take place through the website (web site) where the consumer does not see only the image is displayed as a model for a commodity and does not know it, but it will offer the product or seller of information on the website.

The Objectives of the Research

The research aims in general to analyze the phenomenon of e-commerce and the study of international reality about this phenomenon and stand at the real obstacles to the application and the extent of benefit from them, specifically the review of the concept of e-commerce, types and fields and history of the necessary economic impact on the organization and requirements. And to identify and find out the most important challenges facing the countries of the world in the use of e-commerce.

Research problem

The obligation Knowledge in the electronic contract is essential in electronic contracts, but some of electronic commerce legislation did not address them or did not decide on the organization, as well as "all the civil laws did not look at such a commitment, and even electronic commerce legislation has not been working to identify the content of this commitment clearly as well as "for determining the penalty resulting from the breach of this obligation on the part of the debtor. The concept of commitment flags in specific penalty electronic contract that could result in breach with the absence of clear and frank text that defines the impact of the breach of the obligation flags in the electronic contract.

The Importance of the Research

The importance of this study is that e-commerce has become a factor in the growth of the economies States and to promote foreign trade, has become an important tool in the competitiveness of marketing product increase and provide instant information and services to customers. In addition to the consumer to enable Arena was an immediate demand for goods and services. Therefore it took care of the developed countries and other countries creating their economies and their environment and its institutions to shift to the digital economy (Digital Economy), through e-commerce application across the network Online and work to make the most of them.

CHAPTER ONE

INTRODUCTION TO ELECTRONIC COMMERCE

1.1 What is the meaning E-Commerce?

Explanation of electronic commerce varies according to whom you are asking to:

According to commerce perspective, electronic commerce is implementation of modern technique onto the automation of business dealings and workflows.

According to communications perspective, electronic commerce is the handing over products, services, knowledge, or payments by computer networks, telephone lines or any other ways.

According to online perspective, electronic commerce ensures the capacity of purchasing and selling products and knowledge on the online services.

According to service perspective, electronic commerce is an instrument that addresses the demand of companies, consumers, and management to discount service expenditure whilst developing the quality of commodities and boosting the velocity of service distribution (Turban, 2006).

Whole those explanations foregoing are appropriate. It all depends on the perspective we choose to make sense of electronic commerce. Extensively, electronic commerce manifest new business opportunities abundantly, as pointed out in prominent idioms: “creating business value” or “making more with less” (Kalakota, 1996).

The meaning of “electronic commerce” is purchasing on Internet also known as World Wide Web (the web). But, electronic commerce (or e-commerce) likewise

contains numerous different actions, like business trading, internal processes that firms apply to assist their purchases, planning, selling, hiring, leasing and many different actions. For some electronic business (or e-business) means when they speak concerning electronic commerce in this broader manner. For instance, according to IBM electronic business is “the metamorphosis of key business operations owing to Internet technologies.” Most people mentions about “electronic business” and “electronic commerce” interchangeably. When the expression of “electronic commerce” (or e-commerce) is used in its extensive manner, it contains all business operations that applies online technologies. Internet technologies contains Internet, World Wide Web, and various technologies like wireless connection on mobile telephone systems. Firms that works only on internet are frequently called dot-com or pure dot-com businesses to separate them from establishments that works in actual places (with online operations) (Schneider, 2011). Information Technologies changed our working methods. Electronic Commerce released an utterly different upheaval, which is transforming how corporations sell and purchase. Incorporated with purchasing and selling of goods, services, and knowledge over internet, e-commerce supports utilizing conventional trade by fresh ways of delivering and using knowledge.

E-Commerce is business information exchange without any paper, owing to electronic data, electronic bulletin boards, e-mail, electronic funds transfer, World Wide Web and many different online technologies. Beside automating old fashioned processes on paper, E-Commerce assists ventures for a fully electronic periphery and transform how they operate (Bajaj, 2009). E-Commerce means utilizing electronic assets and technologies to operate trade (buy and sale, transactions, transfers, or exchanges of, services, goods and knowledge), with the inclusion of within business,

business-to-consumer, and business-to-business transactions. Distribution of goods or services could be over or outside of the Internet (Manzoor, 2010).

E-commerce or electronic commerce creates significant online business operations for goods and services. Furthermore it refers to “all form of business operations where parties can interact electronically instead of direct physical contact or physical exchanges. Electronic commerce is mostly about purchasing and selling over Internet, or rights to have access to products or services through a computer-mediated network, or operating any procedure regarding the transfer of possession. Although its popularity this description is not well detailed to explain late improvements of this young and innovative business marvel. A more inclusive description is: Electronic commerce is utilization of data processing technology and electronic communications in trade actions to operate, transform, and redefine affairs for cherish creation between organizations and individuals, or among organizations (Andam, 2003).

According to the definition, electronic commerce refers to diverse online trade operations intensifying on merchandise transactions by electronic means, particularly in Internet, by consumers, firms, establishments, factories, industrial ventures. A vast quantity of famous establishments and firms have their self-description on electronic commerce too. For instance, the Global Information Infrastructure Committee describes e-commerce as the economic movements by e-communications, where consumers can buy products, advertise goods and reach an agreement; ISO describes it as: The general term of knowledge exchange between companies and consumers, and among companies (Qin, 2009). Also, UNCITRAL Model Law on E-Commerce describes every Data message, data exchange and Origin. Article 2 of UNCITRAL Model Law ensures that:

(a) The meaning of “Data message” is information produced, sent, taken or kept by electronic, optical or comparable means including, yet not constrained to, electronic information trade (EDI), e-mail, telecopy, telex, or telegram;

(b) "Electronic information exchange (EDI)" implies the electronic exchange from PC to PC of data utilizing a concurred standard to structure the data;

(c) “Originator” of a knowledge message suggests that someone by whom or on whose behalf, the info message purports to possess been sent or generated before storage, however it doesn't embody someone acting as associate degree intermediary with relevancy that information message (Art 2, 1996).

Additionally the Jordanian Law which enacted in 2001 described everyone of E-Transactions, E-Data Interchange (EDI), Data Message, Originator and Electronic Contract. Article 2 provides that:

- Electronic Transactions: implies Transactions directed by electronic means.
- Electronic Data Interchange (EDI): Means Electronic exchange of data starting with one individual then onto the next utilizing data preparing frameworks.
- Data Message: Information produced, sent, taken or kept by electronic or comparative means, including Electronic Data Interchange (EDI), e-mail, telecopy, telex, or telegram.
- Originator: Means someone by whom or for whose benefit, an information message is produced or sent preceding its receipt or capacity by the recipient.
- Electronic Contract: Means a settlement finished up in entirety or to a limited extent by electronic means (Art 2, 2001).

Also the Directive 2000/31/EC on electronic commerce, enacted in 2000, establishes an Internal Market structure for electronic trade, which gives lawful assurance to business and customers. It sets up orchestrated standards on issues, for example, the straightforwardness and data necessities for online administration suppliers, business correspondences, electronic agreements and confinements of obligation of intermediary administration suppliers.

The best possible way to work with Internal Market in electronic trade is guaranteed by the Internal Market provision, which implies that data society administrations are, on a basic level, subject to the legislations of the Member State in where the administration supplier is built up. Thus, the Member State in which the data society administration is admitted can't confine approaching administrations. Also, the Directive improves regulatory collaboration between the Member States and the part of self-control. Goods and services sold online (financial services, books, and travel services), online information services (like online newspapers), online adverts, entertainment services and basic intermediary services (access to the Internet and transmission and hosting of information), specialist services (doctors, lawyers, estate agents), are the examples of processes covered by the Directive. These services also could supported, for instance, by advertising or sponsorship to satisfy the beneficiary without any charge (Art 1 of The Directive, 2000).

1.2 E-Business and E-Commerce

Are those the same thing?

For some e-business and e-commerce are the same, but actually they are two different concepts. In e-commerce, information and communications technology (ICT) is utilized between business or organization transactions (exchanges among

companies/associations) and in business-to-customer transactions (exchanges among companies/associations and persons).

In e-business, then again, ICT is utilized to improve one's business. It incorporates any procedure that a business association (either a for-benefit, legislative or non-benefit substance) conducts over a PC interceded system. A more thorough meaning of e-business is: "The change of an association's procedures to convey extra client esteem through the use of advances, rationalities and processing worldview of the new economy."

Three essential procedures are improved in e-business:

1. **Production processes**, which incorporate acquisition, requesting and renewal of stocks; preparing of installments; and electronic connections with suppliers.
2. **Client centered procedures**, which incorporate marketing and promoting endeavors, offering over the Internet, handling of clients' buy requests and installments.
3. **Internal management processes**, which incorporate representative administrations, preparing, inner data sharing, video-conferencing, and enrolling. Electronic applications upgrade data stream amongst creation and deals strengths to enhance deals power profitability. Workgroup interchanges and electronic distributed of inside business data are in like manner made more proficient (Andam, 2003).

Here and there the terms E-commerce and E-business are utilized conversely yet they are unmistakable ideas. E-commerce is term used to portray the procedure of exchange business over the Internet. E-business, then again, includes the key reengineering of the plan of action into an Internet based system endeavor. The distinction in the two terms is the extent to which an association changes its business operations and practices by the utilization of the Internet. E-business can incorporate

any procedure that a business association conducts utilizing Internet including web procedures, for example, worker administrations and preparing (Manzoor, 2010).

Likewise with e-commerce, e-business (electronic business) additionally has various distinctive definitions and is utilized as a part of various diverse settings. One of the first to utilize the term was IBM, in October 1997, when it dispatched a crusade worked around e-business. Today, many companies are reconsidering their organizations in the Internet and its new culture and abilities and this is the thing that some see as e-business. E-business is the behavior of business on the Internet, purchasing and offering as well as overhauling clients and working together with business accomplices. E-business is the change of key business forms using Internet advancements. An e-business is an organization that can adjust to steady and persistent change. Practically speaking, e-commerce and e-business are regularly utilized reciprocally. A few examiners and on-line businessmen have chosen that e-business is endlessly better as a moniker than e-trade. That is deluding and taking us from the business objectives within reach. The push to isolate the E-trade and E-business ideas seems to have been driven by marketing thought processes and is terribly thin in substance.

Here's the essential thing: E-commerce, E-business or whatever else you might need to call it is a necessary chore (www.sxccal.edu, 2015). Contrasted and E-business, E-commerce is moderately simple execute on the grounds that it includes just three sorts of fulfillment: vertical joining of front-end Web destinations applications to existing exchange framework; cross-business incorporation of an organization with Web sites of clients, suppliers or intermediaries, for example, Web-based commercial centers; and combination of innovation procedures for request taking care of, acquiring or client administration. E-business is more hard to

actualize on the grounds that it includes four sorts of fulfillment: vertical combination between Web front-and back-end frameworks; parallel joining among an organization and its clients, business accomplices, suppliers or delegates; horizontal reconciliation among E-commerce and Enterprise Resource arranging frameworks; and descending incorporation through the undertaking, for mix of new advancements with upgraded business forms for E-business (Manzoor, 2010).

1.3 Benefits of E-Commerce

- 1- **Information Markets:** E-commerce formed information markets. Little ensembles inside enormous firms can be subsidized with seed cash to grow new thoughts. For instance, Daimler Chrysler has made little groups to search for new patterns and items. A Silicon Valley group is doing purchaser research on electric autos and prompting auto designers.
- 2- **Equalizer and Enabler:** E-commerce serves as an equalizer by empowering start-up and small and medium-sized undertakings to achieve the worldwide business sector goals. E-commerce serves as an empowering agent since it makes mass customization conceivable by including a simple to utilize requesting frameworks that permit clients to pick and request items as indicated by their own and exceptional details e.g. dell.com that permits clients to arrange a PC with details picked by client.
- 3- **Network Production:** Network generation alludes to convey creation procedure to contractual workers who are geographically scattered however who are associated with each other through online systems. System generation can decrease costs, expand strategic promoting. What's more, can likewise encourage saae add-on industrial facilities over the world that works in such undertakings (Manzoor, 2010).

- 4- Better Customer Service:** E-commerce implies better and faster client administration. Online client services makes clients more satisfied. Rather than calling your organization on the telephone, the web trader gives clients direct to their own record on the web. This spares time and cash. For organizations that work with different organizations, including online client service is an upper hand. The overnight bundle conveyance service, where following numbers permit clients to check the whereabouts of a bundle on the web, is one great case.
- 5- Eliminate Cost and Travel Time:** It is not unordinary for clients to set out long separations to achieve their favored physical store. E-commerce permits them to visit the same store for all intents and purposes, with a couple of clicks.
- 6- Create Targeted Communication:** Using the data that a client gives in the enrollment structure, and by setting treats on the client's PC, an e-commerce trader can get to a great deal of data about its clients. This, thusly, can be utilized to convey significant messages. A case: If you are scanning for a specific item on Amazon.com, you will consequently be indicated postings of other comparative items. Likewise, Amazon.com may likewise email you about related items.
- 7- New Business Models:** E-commerce takes into account numerous creative plans of action that give Strategic Advantages and build benefits. Joining multiple buying with opposite barter is one case of an inventive plan of action (Turban, 2006).
- 8- Remain Open All the Time:** E-commerce sites can run constantly. From the shipper's perspective, this builds the quantity of requests they get. From the client's perspective, a "constantly open" store is more helpful.

9- **Create Markets for Niche Products:** Purchasers and merchants of specialty items can think that its hard to find each other in the physical world. On the web, it is just a matter of the client hunting down the item in a web search. One case could be buying out of used parts. Rather than destroying old parts for absence of extras, today we can find parts online without breaking a sweat (Khurana, 2016).

10- **Benefits of E-commerce to Organization:** International commercial center. What used to be a solitary physical commercial center situated in a place has now turned into a borderless commercial center including national and worldwide business sector. By getting e-commerce empowered, organizations now become virtual multinational enterprises. The expense of making, preparing, dispersing, putting away and recovering paper-based data has diminished. E-business has reformed the way customers purchase goods and services. The pull-type processing takes into account item and services to be made for the client's prerequisites. In the past when Ford initially began making automobiles, clients could not have any color inasmuch as it was all black. Presently clients can arrange an auto as indicated by their determinations inside minutes online by means of the www.ford.com site (Tassabehji, 2003).

1.4 Disadvantages of E-Commerce

A large portion of the inconveniences of E-Commerce today depends on the rapid evolution of innovation. It is normal that with expanded acknowledgment of E-Commerce by business and people a large portion of these inconveniences will be determined or turn out to be less bothering.

1. **Security:** Security keeps on being an issue for online organizations. Clients need to feel certain about the trustworthiness of the installment procedure before they focus on buying.
2. **System and Data Integrity:** Data security and the trustworthiness of the framework that handles the information are important concerns. PC viruses are widespread, with new infections found each day. Viruses cause pointless postponements, record reinforcements, stockpiling issues, and other comparable challenges. The threat of hackers getting to records and ruining accounts adds more push to an officially complex operation.
3. **System Scalability:** A business builds up an intelligent interface with clients by a site. After a while, measurable investigation figures out if guests visiting site for one-time or steady clients. In the event that an organization expects 2 million clients and 6 million shows up, site execution will undoubtedly encounter debasement, delays, and in the end loss of clients. To prevent this issue from happening, a site must be adaptable, or upgradable all the time (www.manjeetss.com, 2016).
4. **A Different Business Language:** Online business is only an alternate dialect to a great many people with customary business experience. You don't see the client, cash is executed through unsecured procedures now and again, and discounts can be convoluted.
5. **Legal and Taxation Environment:** The law and tax assessment of E-commerce (both national and global) has numerous misty and clashing laws.
6. **Human Resources:** Most of firms experienced problems about enlisting and holding representatives with the innovative, configuration, and business process aptitudes expected to create and work a successful E-commerce business.

- 7. Universally Accepted Standard:** There is absence of universally accepted standard for qualified security, and dependability of E-commerce operations.
- 8. Other Issues:** Insufficient transfer speed (particularly for e-commerce), as yet advancing software instruments. Society, B2B interfaces, hard to-get investment, and online extortion are some different drawbacks (Manzoor, 2010).

1.5 The development of international legal sources for e-commerce

Many countries have been working to regulate e-commerce, and these countries: United States, France, Singapore, Canada, Japan, and other European countries. Since the end of the seventies of the last century, many of the international organizations concerned with trade took to urge States to expedite to reduce electronic legal problems through the computer, especially those concerned with the information calculated Give legal value. As a result of the lack of an international treaty meant to organize e-commerce, it has found that the countries are working on the development of the law of a non-binding called flexible law. This law helps countries to refer to its provisions when faced with problems related to e-commerce without obliges states to taking it. These law flexible legal environments to accommodate accept various statements, whether paper or non-paper.

International Organization refer to the first initiative, which began in the seventies of the last century of the United Nations Economic Commission for Europe has worked to establish a working group to facilitate international trade procedures, and then the Economic Commission itself to issue the first recommendations that have to do with the information in the maritime transport in the 06/15/1979 and then followed by other regional organizations and international. European Council as the first organization to issue a recommendation to the Member States and urging them to accept the documents and information data recorded on the computer. It must be

remembered that most international documents issued after eight on Trade contains a number of provisions authorizing the use of electronic means rather than paper documents, He worked for the United Nations Commission on International Trade Law at its fifteenth in 1982 to discuss all legal aspects related to the remittances of electronic money and decided at its seventeenth in 1984 to include on its agenda the legal issues raised by the automated processing of data in international trade. The European Community has worked to develop a program called E-commerce information about mutual systems targeted application systems in the European Community. Reports and studies have indicated the presence of three legal obstacles hindering the application of this system are the validity and acceptance of non-paper documents, and proof strength enjoyed by the electronic data, and finally the drafting of electronic contracts, and worked for the International Chamber of Commerce to form a working group on the legal and commercial aspects of electronic data in 1990, the task of following up the work of other international organizations active in this matter in order to provide common positions in front of government and private sector organizations (Abdullah, 2011).

1.6 Types of E-Commerce

The main distinctive sorts of e-commerce are: (B2B)business-to-business; (B2C)business to-consumer; (B2G)business-to-government; (C2C)consumer-to-consumer; and (m-commerce)mobile commerce.

- 1- **(B2B)business-to-business:** B2B e-Commerce includes Companies doing business with each other.one example is a lumber supplier selling wood to the furniture manufacturer. In B2B e-commerce is the largest category by far and expected to grow faster than B2C.

- 2- **(B2C)Business-to-consumer:** B2C incorporates organizations offering to the overall population typically through indexes using shopping basket programming. B2C is the second great and the most punctual type of e-commerce. B2C e-commerce has kept on becoming consistently. This growth has happened both in developed and developing world bringing about an increasingly worldwide group of online customers.
- 3- **(B2G)Business-to-government:** B2G e-commerce incorporates exchanges amongst business and government. It can incorporate the utilization of the Internet for open acquisition, authorizing strategies, and other government-related operations. An example of B2G is Companies Office Web site. The facility makes the process much faster and greatly reduces the cost .One popular form of B2G is e-procurement service.
- 4- **(C2B)Consumer-To-Business:** C2B e-commerce includes trade amongst shoppers and organizations in which buyers choose what they need to pay, and the merchants choose whether or not to admit. C2B plan of action depends on 3 players: a shopper going about as buyer, a business going about as seller and a mediator managing the association amongst dealers and purchasers.
- 5- **(C2C)Consumer-to-consumer:** C2C e-commerce includes business between consumers in which purchasers interface with different buyers online. C2C plan of action depends on 3 players: a consumers going about as merchant, a consumers going about as purchaser and a stage supplier (or middle person) that associates purchasers and sellers to encourage exchanges. Consumers are progressively utilizing the web as a way to offer goods and service through their own sites, email, auction sites, and sites providing classified advertising services.

- 6- **(G2G)Government-to-government:** G2G is the online non-commercial connection between Government (local and central) associations, offices, authorities and other government associations, divisions, authorities. One case of G2G E-commerce is European Union (EU) help framework to support SMEs & business start-ups. Another illustration is Schengen data System which is a legislative database utilized by European nations to keep up and circulate data on people and property of interest for the purpose of national security, border control and law enforcement (Manzoor, 2010).

1.7 The legal nature of contracts for electronic commerce

The World Wide Web users to conclude commercial contracts of sale and purchase and rental of various goods and services which, which pulls us to attempt to analyze the nature of these contracts, is that these contracts consensual subject to the principle of the Sultan's will or acquiescence decades does not have a party of free will when negotiating the other party, such as contracts for electricity, water and other.

1.7.1 Electronic contracts from the consensual nature of the contracts

Side of the Jurists go to electronic trade contracts such as contracts considered consensual and consensual contract is a contract that is once the union accepted the offer between the contracting parties, and originally the contracts to be consensual. And justifies jurists considered e-commerce contracts, such as contracts consensual that the contractor can resort to any supplier or another producer of a commodity or service if you did not like the terms of a producers or suppliers because the market on a total number of not insignificant producers and suppliers (Abdullah, 2011).

1.7.2 Electronic contracts, the nature of the adhesion contracts

Side of the Jurists go to electronic trade contracts considered such as adhesion and why they think that this undermines the seller put the terms of the contract without the buyer can be discussed is either accepted or rejected by a single sentence. There is in English law that e-commerce contracts, such as acquiescence, and that did not mention it explicitly on the grounds that the contractor does not have only to press the number of open fields at the site of the seller or buyer, the specifications desired by the goods or item, and from the eighth defined in advance, the buyer does not have to discuss or negotiate with the seller, and everything that is available to him either accept or reject the entire contract altogether. There is another subject it is a way to send and receive e-mails between computers using the Internet network, and these are called the e-mail contracts. Web where decades looking consumer or contractor for the item or service that intends contracted on the World Wide Web, either through search engines that led to the company's webpage directly "or through access to the company's webpage, which selects from item desired, and click the icon to approve the purchase led by the consumer or user to find himself in front of a typical contract subject on the web and containing the terms and contractual terms which are often non-negotiable.

Held e-mail in the e-mail contracts, the contract as soon as the confluence of acceptance in the affirmative issued by the offer or and by sending disposable electronic message to a positive benefit by accepting the offer, and in fact, a matter of time and venue of the decade-mail by e-mail is a controversial issue between the laws of different countries and so according to the otherwise traditional for the time of the contract after where laws differ in the adoption of various legal doctrines in this (Abdullah, 2011).

1.8 Applying E-Commerce “Sphere of application”

Electronic commerce (EC) is a famous subject in the mass media and also in informatics circles. Maybe its effect is most unmistakable in the territories of financial administrations and retailing. Numerous EC activities have ascended in a brief timeframe. Those activities incorporate innovative smart cards to encourage EC, remote installments and electronic checking, internet exchanging of stocks, bonds and related monetary instruments, web banking, and web retailing (e-tailing). We are presently getting to be OK with the Internet, and we are starting to value its capacity to give an abundance of differing data from around the world; truly a great many sites are only a click away, opening up new open doors for exchange and data trade. Web use is no more an oddity; it is getting to be as much a piece of our day by day lives as TV and telephon. We have seen a genuine revolution with the development of the Internet and Internet use, however now we are encountering a second Internet revolution and it is called electronic commerce. The devices and strategies to empower exchanging over the Internet are getting to be full grown, and EC is getting big very quickly (Gunasekaran, 2002).

E-commerce is connected in a supply-chain operational network environment keeping in mind the end goal to incorporate data and enhance inventory network coordination. In any case, numerous specialists and professionals not able to encourage how to portray the extent of e-commerce diffusion in a operational production network environment; should it be diffused to the supplier, client, both, or others (Sha, 2015). Moreover UNCITRAL Model Law on Electronic Commerce decided the extent of the e-commerce. Article 1 of Model Law gives that: *"This Law applies to any sort of data as an information message utilized as a part of the commercial exercises"* (Art 1, 1996).

The Commission proposes the accompanying content for States that may wish to constrain the pertinence of this Law to global information messages. This Law applies to a data message as characterized in passage (1) of article 2 where the data message identifies with worldwide trade." This Law does not supersede any principle of law intended to protect the shoppers. The Commission recommends the accompanying content for States that may wish to augment the pertinence of this Law: "This Law applies to any sort of information as an data message, with the exception of in the accompanying circumstances The expression "commercial" ought to be given a wide translation to cover matters emerging from all connections of a commercial nature, whether legally binding or not. As well as article 3 of the Iraqi Electronic Signature and Electronic Transaction law provides that:

First the provisions of this law shall apply to:

- a. electronic transactions carried out by natural persons or legal entities
- b. agreed edges transactions carried out by electronic means
- c. Securities and electronic business

Secondly, do not apply the provisions of this law on the following:

- a. transaction relating to matters of personal status and personal items
- b. create a commandment and endowment and modify its provisions
- c. transactions relating to the disposition of immovable property, including the related agencies and securities ownership and the creation of rights in kind with the exception of the leases for these funds.
- d. transactions that draw her a certain formality law
- e. Court proceedings and judicial commercials and advertisements attendees and orders search and amoamr the arrest and judicial rulings and Any document required by law documented mediated by a notary public (Art 3, 2012).

Connections of a business nature incorporate, however are not constrained to, the accompanying exchanges: any exchange for the supply or trade of products or administrations; appropriation understanding; business representation or organization; figuring; renting; development of works; counseling; building; permitting; speculation; financing; managing an account; protection; abuse assention or concession; joint endeavor and different types of modern or business participation; carriage of merchandise or travelers via air, ocean, rail or road (UNCITRAL, 1999).

The dissemination of e-commerce has been acknowledged by numerous business associations and operations. Particularly in production network administration and the incorporation of accomplice firms, the dispersion of e-commerce enhances data coordination. Demonstrated that e-commerce can be connected to enhance data reconciliation for related production network interior capacities or exercises. The appropriation and dispersion of e-commerce in a production network operational environment can decrease instability and enhance coordination, and guarantee the coordination results adjust to dominant part execution. In spite of the fact that the dissemination of e-trade can effectively enhance production network coordination, the extent of its proficient dispersion must be characterized. Indeed, we frequently discover more than one extent of e-business dissemination. Diverse inventory network coordination results will be created if distinctive extents of the dispersion of e-commerce are embraced in store network operational situations. Which extent of e-business dissemination can prompt the best coordination results? Is it embraced by numerous accomplice firms? Is it embraced between numerous makers and suppliers or clients? At the point when the extent of e-commerce dissemination is totally stretched out to suppliers and clients in the store network operational environment, the coordination results will fulfill the greater part

of aggressive execution needs. Found that organizations embracing a vast extent of e-commerce dispersion will prompt better production network coordination results. Shown that when the dispersion extent of e-commerce is totally stretched out through numerous organizations' reception of e-commerce, this will prompt the better execution of business operations, as consequence of, we can derived that if numerous accomplice firms at different focuses in the inventory network receive an expansive extent of e-trade dissemination, the coordination results will be made strides (Sha, 2015).

Likewise the Jordanian Law characterized the extent of e-trade. Article 4 of Jordanian Electronic Transactions Law gives that: The procurements of this Law might apply to the accompanying:

1. Electronic transactions, electronic records, electronic signatures and any electronic data messages.
2. Electronic transactions adopted in whole or in part by any governmental department or public institutions (Art 4, 2001).

Also, Article 6 of the same law decided some electronic operations which are not subject to this law. Article 6 of Jordanian Electronic Transaction law gives that:

The procurements of this Law should not apply to:

A- Contracts, instruments or documents that are governed by special legislation and prepared in a certain form, or in accordance with specific procedures, including the following:

- 1- Wills and amendments thereto;
- 2- Waqfs and amending conditions thereof;

- 3- Transactions disposing of immovable property, including related powers of attorney, title deeds, and transactions creating real rights in respect thereof, with the exception of lease contracts;
- 4- Power of attorney instruments and transactions relating to personal status;
- 5- Contract termination or revocation notices relating to water or electrical services, health insurance or life insurance;
- 6- Bills of statements, court proceedings, judicial notification and courts decisions.

B- Securities, except for cases provided for in special instructions issues by the competent authorities pursuant to the Securities Law in force (Art 6, 2001).

Additionally The European Union comprehended, from the earliest starting point, the considerable capability of the e-trade; that it can advance rivalry, and permit organizations to grow new associations with their clients, in view of a win-win model. In any case, the European e-commerce market can't be seen as one single business sector itself, since there are real contrasts from nation to nation. Actually, as it can be seen from the figure underneath, the European e-trade market comprises of a few markets. Article 1 of the Directive/31/EC of the European Parliament and of the gathering decided the extent of the e-commerce, gives that:

1. This Directive tries to add to the correct working of the inward market by guaranteeing the free development of data society administrations between the Member States.
2. This Directive approximates, to the degree essential for the accomplishment of the target set out in section 1, certain national procurements on data society administrations identifying with the inward market, the foundation of administration suppliers, business interchanges, electronic contracts, the

obligation of middle people, implicit rules, out-of-court debate settlements, court activities and collaboration between Member States.

3. This Directive supplements Community law pertinent to data society administrations without bias to the level of assurance for, specifically, general wellbeing and buyer interests, as set up by Community acts and national enactment actualizing them in so far as this doesn't limit the flexibility to give data society administrations.

4. This Directive does not set up extra guidelines on private worldwide law nor does it manage the ward of Courts.

5. This Directive shall not apply to:

(a) The field of taxation;

(b) Questions relating to information society services covered by Directives 95/46/EC and 97/66/EC;

(c) Questions relating to agreements or practices governed by cartel law;

(d) The following activities of information society services:

- The activities of notaries or equivalent professions to the extent that they involve a direct and specific connection with the exercise of public authority,

- The representation of a client and defense of his interests before the courts,

- gambling activities which involve wagering a stake with monetary value in games of chance, including lotteries and betting transactions.

6. This Directive does not influence measures taken at Community or national level, in the admiration of Community law, keeping in mind the end goal to advance social and semantic assorted qualities and to guarantee the guard of pluralism (Art 1 Directive, 2000).

1.9 Applying E- Commerce in Iraq and Kurdistan Region

The history of the use of computers in the Arab world dates back to more than a quarter of a century and prepare computers continues to increase. It is noticeable that the Arab market in the computer field, the upside mobile market is growing at a fast rate. In addition the State of Iraq and the Kurdistan Region, which was a pioneer in various fields of computer science and technologies in the region and the Arab world, since the beginning of the seventies, worker know for unremitting efforts, but the blockade and economic sabotage solving communications network because ,aggression on Iraq in 1991 for the advancement of computer science and technology represented the development of science departments and techniques and software in all various universities in the country and disseminate scientific awareness about computer applications more widely among the different segments to our country is no different from the course of the global scientific development, particularly the major powers, particularly the US- liners of America is seeking by all means to monopolize the industry, particularly high-tech rings to ensure its dominance of the global computer market, which is witnessing rapid development in all directions. As well as causing the blockade imposed by the Security Council since 1990 to prevent the introduction of Internet service to Iraq, and when he had authorized entry to Iraq was the number of users some do not exceed the thousands because of the lack of knowledge of the importance of this service and the weakness of knowledge using modern techniques and all this because of the blockade Also .But at the present time, the matter took a different dimension and became the existence of the original Muslim women in the life of the state where it was distributed to all institutions and state departments of

companies and government departments and the private sector and individuals (Abdullah, 2011).

Fortunately in the Iraq and the Kurdistan regional government (KRG) as the part of Iraq passed a law under the name of “electronic transactions and Electronic Signature law” in 2012. that the approval of the draft law on electronic signature and electronic transactions is in line with the transformation seen by the development of institutional country's adoption of modern technology in daily business and to raise the performance of the general departments and transactions among government departments and to facilitate some of the things that overcome the administrative problems and shorten the time in completing transactions efficiently and within a legal framework for electronic transactions by means of modern communications and encourage the use of information technologies and internet, development and organization of services for electronic signature and electronic transactions and keep abreast of legal developments in and adapt the legal system, traditional in line with IT systems and modern communications, where the draft law intends to give legitimate contention for electronic exchanges and signed mail and the association of its procurements and in addition to reinforce trust in the legitimacy and honesty of electronic exchanges. that the Secretariat of the Council of Ministers in Iraq proposed a draft law in view of the evolution of electronic and adopt the draft law on the work of a model law for electronic signature and electronic transactions and prepared by a specialized committee of the United Nations has been found on similar laws in some countries in this field such as law the U.S. and England, and the UAE and Jordanian and French to be drafted according to the requirements of the need for technical electronic explained the draft law is intended to electronic transactions which applications, documents and transactions by electronic means, equipment, tools,

electrical or magnetic or optical or electromagnetic or any similar means used to create and process information, share, store and apply the provisions of the law on electronic transactions carried out by Natural persons or legal transactions and agreed by the parties to implement them by electronic means as well as securities and electronic business. the provisions of this law do not apply to transactions relating to matters of personal status and personal materials and the establishment of wills, trust, amendment provisions and transactions relating to the disposition of immovable property and transactions to which the fee is to the law of certain formalities, where is the electronic signature is valid and issued by the site if the available means to update the identity of the site (Dabagh, “<http://stardogger.net>, 2016).

Indicate approval as stated in the electronic document, according to the agreement and take the electronic signature within the scope of civil and commercial transactions, administrative capacity, the same legal assessments for hand-written signature if it takes into account the conditions mentioned above and that the company and defined by law as a public company services the International Network for Information in the Ministry of Communications granted licenses issued export certificates after obtain the approval of the minister and determine the technical standards for electronic signature systems, monitoring and supervising the performance of actors in the field of certification and evaluation of their performance and providing technical advice to those working in the field of electronic signature certificates and certification. the law allows for practicing the activity of issuing the export certificate in accordance with a license obtained in accordance with the provisions of this legislation to take into account the company's number of granted licenses to practice the activity of issuing the export certificate requirements are to ensure competition and openness in the selection of the licensee and determine the

appropriate period for the entry into force of the license where the licensee to render and save the receipt and digital certificates using reliable mechanisms and programs for protection from counterfeiting and fraud. With the possibility to keep the form in which they were created, as well as the effect of this bill on electronic contracts (IETAES, 2012).

1.10 Legal problems raised by contracting by electronic means

The contract by electronic means raises a lot of differences, and perhaps this is evident in the modern civil legislation. Select this type of contract raises many legal problems, perhaps including the problem of determining the place and time of the contract, the identity of the contractors, and the problem of contractors languages and legal proof, and the problem of theft of customers' card when handling and an inability to see or Sales examination and other problems legal.

1.10.1 Time and Place of the Electronic Contract

In distance contracts and contracts remote poses Problems related by time and place of conclusion of the contract because the parties to the contract to present time of the establishment of the contract. The determination of the time of the establishment of the contract has definite implications for the process, including the date; the viewer cannot drop him after the acceptance of the contract shall be binding and restricted its content. As for locating the establishment of the contract, it helps to identify and determine the applicable jurisdiction of international courts, especially that most of the contracts on the nature of international law. For example Article 21 of the Iraqi Electronic Signature and Electronic Transaction stated that:

first prepare electronic documents had been sent from the place where the headquarters of the operation of the website and it's received at the place where the

place of business of the consignee and if it was not for either of them a place of business is a residence-based work unless the site and the consignee has agreed to other;

Secondly, if the site or the consignee more than one place of business shall be deemed to Headquarters closest link transmitter is the place of treatment or receipt and when you can not specify is the President's action is to place the transmitter or receipt (Art 21, 2012).

1.10.2 Modern theories in determining the time of conclusion of the contract

Chevalier Theory: This theory Also separated the time of the convening of the venue, with respect to one's time of the contract, is the time when the offer or is unable to return for his proposal, and Mr. (Chevalier) prefers the theory of special flag in the event that the offer is associated with certain time because the idea of the contract consensual incompatible with the existence and venue of the contract between absent, and this means that there is a certain place it is possible to stabilize the two wills, and this is impossible, because the intention of the joint contractors and match the two wills at a specific time, and enough to get it that there will be approval of the offer stay as long a period of time did not get back from it, and they do not in a particular place, acceptance cannot be in place and certain time.

Article 15 of the UNCITRAL Model Law on Electronic Commerce adopted by the United Nations in 1996 about Time and place of dispatch and receipt of data messages provides that:

(1) Unless otherwise agreed between the originator and the addressee, the dispatch of a data message occurs when it enters an information system outside the control of the originator or of the person who sent the data message on behalf of the originator.

(2) Unless otherwise agreed between the originator and the addressee, the time of receipt of a data message is determined as follows:

(a) If the addressee has designated an information system for the purpose of receiving data messages, receipt occurs:

(i) At the time when the data message enters the designated information system; or

(ii) If the data message is sent to an information system of the addressee that is not the designated information system, at the time when the data message is retrieved by the addressee;

(b) If the addressee has not designated an information system, receipt occurs when the data message enters an information system of the addressee.

(3) Paragraph (2) applies notwithstanding that the place where the information system is located may be different from the place where the data message is deemed to be received under paragraph (4).

(4) Unless otherwise agreed between the originator and the addressee, a data message is deemed to be dispatched at the place where the originator has its place of business, and is deemed to be received at the place where the addressee has its place of business. For the purposes of this paragraph:

(a) if the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction or, where there is no underlying transaction, the principal place of business;

(b) if the originator or the addressee does not have a place of business, reference is to be made to its habitual residence (Art 15, 1996).

Model Law differentiates between the two cases the first case: when the consignee specifying information receives messages from the system if the Selects e-mail a specific address, in this case is determined by the time of receipt to enter the

letter to this site. If you sent a message through the site is receiving, the time is a time to extract the consignee message from that site if the site belonging to the addressee.

The second case in the absence of the sender set him certain information system to meet the electronic message, the receiving time is the time of entry of the addressee information system to him, if the message was not sent to the addressee directly but was sent to the broker shall then sent to the addressee, the message does not is considered to have reached its entry mediator system even when the information system of intervention addressee If designated location or to the addressee's location to him, it is considered to have reached If the carrying acceptance In this moment is a contract has been concluded because the access presumption of science, whether the message was understood or usable by the addressee or incomprehensible any encrypted.

Where to create electronic contracts? The four theories above are not given special provisions venue of these contracts, and for this he called unilateral jurisprudence theories because they assume a correlation between the time of conclusion of the contract and place, as distinct from bilateral theories that distinguish between the time and venue of the decade.

Due to the development and increase the means of electronic communication it was possible that the contracts concluded between people belonging to different countries and thus to different legal systems, so when you search for locating the contract must be taken into consideration a number of data are:

Firstly if the contract party to belong to one country does this mean that they are under the legal system and one does not have any problems but should be taken into account if one of the parties consumer and other merchant usually provide laws

to protect and care for the consumer and to facilitate the litigation procedures him and give jurisdiction to the courts which is the residence of the consumer without any restrict whether this positive consumer in the contract or whether it viable. If, however, the parties have traders does there need to take account of one without the other.

Secondly if the contract is a party to belong to two different states, it probably is between two people belong to two bills in two different and this inevitably raises multiple problems, including determining jurisdiction and legal for this contract and its disputes, and here we must distinguish Also if one of the parties a consumer or not, If the consumer of the sponsorship and protection be more in many aspects of which determine the competent courts to hear disputes in the contract, as well as determine the law applicable to the contract law (Abdullah, 2011).

Confirming that stipulates AD 114 from a Swiss Private International Law of 1987 which decided to raise consumer lawsuit choice in front of his home court or place of ordinary residence or domicile court or set up my provider or service, and decided the same material indulging in consumer protection (he may not be to the consumer this is to give up in advance for the jurisdiction of the Court of domicile or place of ordinary residence) was the Brussels Convention (canceled) between the European common market countries on jurisdiction and enforcement of foreign judgments of 1968 are the other states on similar provisions.

The same applies to the base of conflict relating to the appointment applicable to international treatment as applied to replace the consumer to establish the law of the law, But if the relationship between the two dealers usually uninhibited in advance and are identifying the laws and the courts, which would wait for the

conflict or the application of the rules of conflict (Abdullah, 2011). UNCITRAL Model Law on electronic commerce was mentioned in the text of Article 15 provides that “without Agreed between the originator and the addressee is, it is considered that the data message posted at the place where the originator of a place of business is located, and is deemed to be received at the place that sent him a place of business is located” (Art 15, 1996).

For the purposes of this paragraph:

-In the event that the originator or the recipient has more than one spot of business, the spot of business is that which has the nearest relationship to the underlying exchange, or principal spot of business where there is no such treatment.

-If it was not the originator or the addressee has its place of business, then referred to the habitual residence. This rule is to send the message that the place be in place acts of the originator and the place of receipt is the place where the consignee business is located is located.

As stated in the exchanges and e-commerce Tunisian legislation which stipulated that he (the decade-mail address of the seller shall be established in the history of the consent of the latter on the order by electronic document directed to the consumer, unless the parties agree otherwise. As each of the Jordanian lawmaker and legislator in the emirate of Dubai were not raised to the place and time of the contract, but systems time and place of dispatch and receipt of electronic data messages.

CHAPTER TWO

CONSUMER PROTECTION IN EU AND IRAQI LAW

2.1 Consumer Protection in Iraqi Law

2.1.1 Consumer Protection in the previous phase of the conclusion of the contract

The previous stage on the conclusion of the contract of the most important stages and most dangerous as contained in the identification of each parties rights and obligations and in ensuing different legal issues , and then begin to consumer protection in electronic trade contracts in this stage as a stage that set the foundations basic , if the contract consumption of contracts between a professional dealer and consumer, the relationship between them are starting is not balance , the attempt to balance the protection of the weaker party, a consumer starts in the previous stage of the conclusion of the contract (Abid, 2010). For example article 18 of the Iraqi Electronic Signature and Electronic Transaction provides that:

First, may be offer and acceptance of the contract by electronic means.

Second, is the electronic documents issued by the site, whether issued for or on behalf of, or by electronic medium is intended to work automatically mediated site or on his behalf.

Third, the addressee that is electronic documents issued by the Website and to act on this basis in any of the following cases:

- a. If you use the consignee information processing system has already been agreed with the site to be used for this purpose to verify that the electronic documents issued by the Site.

- b. If the documents, which came to the consignee resulting from measures carried out by a person under the site believe his representative and authorized to enter the electronic means used either to determine the identity of the site of electronic document issued by the location of the sender if he knew him not to release the document for the site or did not make the usual care to make sure that (Art 18, 2012).

2.1.2 Consumer protection while configuring e-commerce contracts

The contract does not differ across the internet for others than traditional contracts that are called by the first and two wills, while the second is called acceptance and is expressed in these two wills certain ways defined by the legislature.

There is no doubt that the contract entered into via the internet, subject to the provisions of the general rules and organized by the general theory of the contract, but it is also indisputable that electronic means by which the contract is concluded by means some privacy aspects of the Parties should be taken into consideration and rely on their own judgment to these images rules.

These contracts are characterized as based on the means through which to express their will and are non-traditional ways, and so through the electronic exchange of data and is what could trigger a lot of problems. As the expression of the will of the speed and positively accepted through electronic means raises a great eye of quality problems that may not be in favor of the consumer. Moreover, this type of contracting characterized by the physical presence of the parties to the contract (Abid, 2010).

Means the will of the determination to make the legal process place of contracting, is the expression of the will by using contractual means indicate the presence. The expression of the will in electronic trade contracts do not take a single image, but multiple images and methods offered by electronic means to express their will, which may be the expression of the will by e-mail or through a website or through chat or direct observation.

Express their will through the site: The site consists of a set of pages and home page and the network includes a large number of sites in a variety of disciplines, medical, technical, engineering and business ... etc. The dealer can a professional to introduce a commodity and services to the consumer through the site, and the site here is similar to the shops as it includes a visual presentation of the goods or models of which or information on this item or service for which the merchant site owner provided and can the consumer to express their will through the Web sites by typing or by clicking on a particular button can also express their will and using some of the signs and symbols that have become customary over the network by, for example, there is a reference smiley face indicate approval and angry face indicate rejection. And there are those who believe that these new signals issued by a computer device on and it reflects the will of the person and not the will of the computer on. Article 11 (1) of the UNCITRAL Model Law on Electronic Signature provides that:

With regards to contract development, an offer and the acknowledgment of an offer might be communicated by data messages, unless otherwise agreed by the parties. Where a data message is utilized as a part of the development of an agreement, that agreement should not be denied legitimacy or enforceability on the sole ground that a data message was utilized for that reason (Art 11, 1996).

The expression of the will via e-mail: The internet offers as well as positioning service, e-mail service, which means an exchange of letters between the parties, but electronically, as this medium allows sending certain messages to certain people to reach immediately and should use this medium to have a merchant mail address consumer postal address and the a similar and are the expression of the will process that the sender opens mailing address and determines the consignee, which consists of three parts shall thereafter have the message by printing them on the computer on a linked network internet address and then sends the message using the injunction is up letter to the address specified by the sender.

Express their will through a chat: Internet network allows contracting parties express their will speak directly and in the presence of both parties at the same time and access to the internet. The conversation over the network of contact so that it can be done through the writing, so that each party writes on his screen and then talk immediately moves to the second party screen. Or exchange directly to talk to them verbally so that each party to hear what the other party, and more than that each party could watch the other and through a digital camera attached to a computer.

2.1.3 Subsequent protection of the conclusion of the contract

The elements of consumer protection in the previous phase of the conclusion of the contract through enlightenment and informational formation decade-mail designed primarily to protect the consumer satisfaction before his feet on the conclusion of the contract.

As for consumer protection in the subsequent phase of the contract relates to the stage of execution of the contract and may attendant circumstances so that the consumer need of protection may exist after the conclusion of the contract, as is a list before its conclusion. And establish such protection on the same foundations and

justifications upon which the previous protection of the conclusion of the contract, which is the special nature of the device, which entered into whereby the contract. Perhaps the most important protection enjoyed by the consumer after the conclusion of the contract is to protect the effects of the principle of the binding force of the contract by protecting the right to practice reverse the contract option after its conclusion and to be protected from arbitrary conditions, as well as protect it from damage defective products and dangerous and so as to ensure safety. That as the openness of the Internet network worldwide property reflected on the electronic trade contracts These contracts based on the means by which carried out may not be confined to the borders of one country to make them contracts and national in all its elements, and they are more often a cross-border one of its elements is a foreigner, raising the issue of protection consumer by identifying applicable in e-commerce, which is a party consumer contract law.

2.1.4 Protection optional consumer in regret for electronic contracting

The consumer may find after a decade of e-trade contracts concluded he rush to its conclusion influenced by means of publicity and advertising, under the temptations and facilities of the seller, as a means by which the conclusion of the contract may not provide the opportunity to think careful before conclusion. And the consumer may find after completing the contract and received the item they do not comply with his wishes or he envisioned contrary to what they look like, as the contract via the internet, does not allow for the fact that my vision and experience.

In all these hypotheses and other consumer finds that the damage of the contract concluded in his favor is and wants to reverse it, so the search topic define the concept of reverse decade and legislative regulation of the reverse option (Abid, 2010).

2.1.5 Applicable law and consumer protection in e-commerce contracts

It was specifically the internet properties as a global open network does not abide by the limits of the place and the property is reflected of course on e-commerce contracts. These contracts based on the means by which carried out is not confined to the borders of one country to make them contracts and national purist in all of its elements (parties, essential and a cause) and they are more often a cross-border one of its elements is a foreigner who was one of the parties. Of these vestiges relationship a foreign element in e-commerce consumer contracts, the contract on consumption as an international contract raises the problem of conflict between the laws.

Generally speaking, it does not exist in international electronic trade contracts predetermined law has priority or the absolute power to rule, but rather it depends on the approach applied in determining the law applicable to the contract of international trade law.

Perhaps most important, this approach is an approach which is based on the will of the parties to choose the applicable law, but this check may represent a degree of risk to the consumer as the weaker party in the contract, which required him to be protected from the risk arising from the launch of the freedom of parties to choose the law of the contract if not agreed Contracting Parties to determine the law governing their contract, it can determine this law through substantive focus and that the theory of contract award to the most closely related to the law. And require the consumer having to assign controls to protect private consumer contracts to ensure the achievement of the consumer in the interests of international trade contracts (Abid, 2010).

2.2 Consumer Protection in EU laws

2.2.1 Consumer Protection: Distance Selling

Generally the Directive on electronic commerce is without preference to the level of security for customer interests as set up by community acts, a number of which are listed in consideration (11) of that Directive. An important difference between these directives and the Directive on electronic commerce is that the former only apply to online transactions involving consumer (i.e., a natural person acting for purposes outside his business trade). Also, they tend to provide minimum rules which allow member states to introduce or maintain stricter rules, and consequently do not necessarily result in same degree of harmonization.

2.2.2 Consumer Protection: Distance Contracts

Of the directives mentioned in consideration (11), “Directive 97/7/EC of the European Parliament and of the Council of 20 MAY 1997 on the protection of consumers in respect of distance contract is probably the one most relevant to e-businesses (at least those operating on the business-to – consumer, or B2C market), as the internet by nature introduces a distance component in any online transaction. Although it was not drafted primarily to deal with e- commerce, directive 97/7/EC does apply to contracts concerning goods or services concluded between a consumer and a supplier, making use of a website as part of an organized distance – sales or service- provision scheme.

One the most significant provisions of directive 97/7/EC is that it provides consumers with a right of withdrawal for any distance contracts ,meaning that consumers may withdraw from the contract without giving any reason and without penalty without a specified period of time (a.k.a. the cooling off period). The right of

withdrawal is not obligatory for certain distance contracts. For example, those products made according to consumer specifications, because of their nature cannot be returned. Like the directive on electronic commerce. Directive 97/7/EC also contains transparency requirements. Data provided to customer before the conclusion of any distance contract incorporates the principle qualities of the products or services, all taxes and delivery costs, arrangements for installment, delivery or execution and the presence of the right to withdrawal. The customer must get affirmation of this data in composed structure, or in another solid medium, accessible and open to him or her. Affirmation must be gotten in good time amid the execution of the agreement and at the most recent at the time of conveyance. If the supplier follows these necessities, the cooling off time frame endures seven working days, beginning from the day of receipt of the merchandise or, for services. From the day the agreement was concluded, or the required data was affirmed.

Consumer protection: Distance selling

If the supplier neglects to satisfy its commitment to give this composed affirmation, the cooling off time frame is stretched out to three months. The supplier can abbreviate this period by giving the composed affirmation inside these three months, in which case the cooling off time frame will end seven working days after the affirmation has been given. Upon exercise of withdrawal, the supplier must repay the entireties paid inside thirty days. Only the immediate expenses of giving back the products might be charged to the buyer (Kroes, 2010).

Directive 97/7/EC also contains rules on the performance of the contract. Unless agreed otherwise, an order must be executed within 30 day of its being placed . Other issues addressed in directive 97/7/EC include fraudulent use of payment

cards, unsolicited supply of goods or services (inertia selling), and use of certain (intrusive) means of distance communications. The issue of intrusive distance communications is also addressed by directive 2002/58/EC of the European parliament and of the council of 12 July 2002 concerning the protection of privacy in the electronic communications sector and the processing of personal data. Member States are further more placed under an obligation to ensure effective and adequate means for compliance with the requirement of Directive 97/7/EC. They may provide for voluntary supervision by self-regulatory bodies ,and for recourse to such bodies for the settlement of disputes .The issue of voluntary supervision has also been addressed by the Directive on electronic commerce , which requires Member States to encourage out-of-court dispute settlement schemes(including through appropriate electronic channels) and remove obstacles in their legislation which may hamper these .

2.2.3 Distance Marketing of Consumer Financial Services

Directive 97/7/EC does not apply to consumer financial. These are covered by directive 2002/65/EC of the European parliament and of the council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. Directive 2002/65/EC applies rules similar to those from Directive 97/7/EC to banking, insurance, investment and payment services .It introduces a right of withdrawal from 14 to 30 days (with exception for certain financial services with fluctuating prices), and contains transparency requirements as well as provisions on unsolicited selling, use of intrusive means of communications and dispute resolution. On the issue of alternative dispute resolution, the European Commission has stimulated the foundation of FIN-NET, network of organizations across Member

States which offers to assist consumers while using cross-border services. Unlike Directive 97/7EC, Directive 2002/65/EC does not contain a “minimal clause” which suggests that Member States are not free to introduce or maintain tougher provisions (Kroes, 2010).

2.2.4 Directive on unfair terms in consumer contracts

The directive on unfair terms in consumer contracts was adopted in 1993. It is a horizontal measure, i.e. it is not limited to consumer contracts in specific economic sectors and there is little exclusion. The vast majority of typical electronic contracts in the Community, such as buying a CD-ROM or information via a website, will fall to be regulated by the Directive.

The Directive defines consumer as follows: any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his be resolved by the courts. It is unclear, for example, whether a car mechanic who buys software to use in his garage is acting outside his trade, business or profession, within meaning of the directive. Although the mechanic is just as much a contributor to the single market, and is as unlikely to read the applicable contract terms, as somebody buying software for home use, the decision of the court in the “republic v. DI Pinto” indicates that he is probably not a consumer within the meaning of the Directive. The core provision of the Directive is that unfair terms shall not bind consumer. The Directive gives that a term is unjustifiable if, as opposed to necessity of good confidence, it causes a noteworthy awkwardness in the gatherings' rights and commitments emerging under the agreement, to the detriment of the customer (Dikai, 1999).

As it has been quite recently seen, two angles are especially basic in the area of customer contracts: the typical inconceivable possibility to arrange the substance of the agreement and the conceivable absence of chance for reflection by the purchaser at the time of his affirmation of will.

The first is portrayed by an abnormal state of strictness, institutionalization being a vital element of mass contracts. Be that as it may, to maintain a strategic distance from any inconvenient impacts of institutionalization for the purchaser, a compelling tradeoff is given by the European Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts by providing that *“A contractual term which has not been individually negotiated shall be regarded as unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties’ rights and obligations arising under the contract, to the detriment of the consumer”*.

For that, the European law makers wishes *“that unfair terms used in a contract concluded with a consumer by a seller or a supplier shall [...] not be binding on the consumer and that the contract shall continue to bind the parties upon those terms if it is capable of continuing in existence without the unfair terms”*.

Such Directive does not have any effect with reference to the kind of finish of the agreement, and in this way it will be important to confirm if in the standard terms and states of the e-contract arranged by the supplier and that should be given to the customer, any term or condition that is out of line as per the procurements of the Directive is available or not. With reference to the second angle, the one of the full freedom and consciousness of the customer in his basic leadership procedure to go into a specific understanding, when a transaction is missing and it is substituted by a basic consent to a standard and non-modifiable proposition similar to the case in the electronic buyer contracts, it is more productive and proper to offer an assurance

consequent to the finish of the agreement by giving the alternative to rethink the agreement he went into. This need has been perceived by the European administrator, when all is said in done, through the European Directive 97/7/EEC of 20 May 1997 on the protection of customers in admiration of separation contracts and through the different European Directives alluded to particular divisions.

Additionally, the European officials already ordered the Directive 85/577/EEC of 20 December 1985 to secure the customer in admiration of agreements arranged far from business premises making a purchaser insurance control forcing extraordinary obligations of data on the supplier and perceiving the privilege of withdrawal from the agreement he went into for the buyer 8. Incidentally, Directive 97/7/EEC on the security of buyer in appreciation of separation contracts has offered ascend to some harmonization issues with Directive 85/577/EEC.

The model that was kept into thought for this Directive is that of the deals with no sort of arrangement, when the purchaser "suffers" the terms and states of the agreement without having any probability to measure it up. This is the motivation behind why the center of such discipline is represented by the privilege of withdrawal and by the obligation of the supplier to educate the consumer about the presence of such right (Mancuso, 2007). The e-commerce is not explicitly specified by Art. 1. of the Directive 85/577/EEC among its fields of utilization, however Art. 1, n. 4 of the Directive 85/577/EEC gives that:

“This Directive shall also apply to offers made contractually by the consumer under conditions similar to those described in paragraph 1 or paragraph 2 where the consumer is bound by the offer” (Art. 1, n. 4 of the Directive 85/577/EEC) and in principle this could be the case of the e-commerce transactions.

Moreover, e-commerce contracts are without a doubt contracts arranged far from the supplier's business premises, and there ought to be no doubt about the likelihood to broaden the utilization of such Directive to the electronic contracts, additionally if finished up by email. Regardless there is probably on the likelihood to expand the use of the European Directive 97/7/EEC on the security of purchaser in appreciation of separation contracts to the e-business exchanges. E-business contracts are without a doubt separation gets the electronic conclusion of agreements sets these sort of agreements in the range of agreements went into utilizing a separation specialized gadget – web – and in this way in the zone of separation contracts. Also, the European Directive on e-commerce explicitly protects the utilization of the Directive on separation contracts, as it will be viewed as later more in point of interest.

With particular reference to electronic contracts, reference should thusly be made to the European Directive 2000/31/EEC of 8 June 2000 on electronic trade, instituted to make a legitimate structure for electronic trade with the motivation behind accomplishing a harmony between business interests and the need to secure consumer rights. This Directive contains particular procurements as far as data to be given (Art. 10) and straightforwardness in which the clients will give their full and informed assent (Art. 11) and be completely mindful of method for review (Art. 18 and 20).

With specific reference to the obligation of data, Article 10 of the said order records the base necessities as far as data to be given to the buyers. The accompanying passage 3 is especially essential: as it has been underlined, one of the primary worries in the region of e-trade contracts is the invalid possibility for the purchaser to arrange terms and states of the understanding that he ought to go into

with the supplier. In this way the European Directive requires that the supplier might make accessible the terms and states of the consent to the customer in a way that he can read duplicate and print them, and such commitment is substantial additionally for contracts finished up through the trading of messages. Specifically associated with the issue of the data to be given to the buyer is the subject of the publicizing. This point has as of now been tended to by the European officials before the Directive on the e-commerce through the Directive 1984/450/EEC identifying with the estimate of the laws, controls and authoritative procurements of the Member States concerning deluding publicizing and the Directive 1997/55/EEC concerning deceiving promoting in order to incorporate similar promoting; and in this system the Directive on e-commerce that arrangements with on-line commercial is to be embedded. Article 6 of the Directive recommends the base necessities for on-line business notices, while the accompanying Article 7 tries to build up a few measures to avoid, or – at any rate – stem, undesired instances of spamming. Despite the fact that such Directive has been sanctioned with the reason to make a sure and defensive environment for buyers in electronic exchanges, it doesn't contain any privilege of free withdrawal for the customer. The European Directive 2000/31/EEC on electronic trade, truth be told, has embraced this sort of methodology without giving any sort of general right of withdrawal for the buyer in the electronic contracts.

Also, the Directive explicitly defends the use of particular Community acts ensuring purchaser rights, making express reference to the Council Directive 93/13/EEC on out of line terms in buyer contracts and the Directive 97/7/EEC on the security of customer in admiration of separation contracts. In this manner, the customer who chooses to pull back from the electronic contract ought to practice such plausibility by conforming to the prerequisites accommodated by the Directive

on separation contracts, being certain that such right is practiced inside the base term (7 days) accommodated by the Directive in its Article 6, to stay away from any issue getting from the execution of the Directive in the distinctive European part nations. From this brief disregard, it can be underlined that the European structure as far as buyer assurance if there should arise an occurrence of electronic business seems, by all accounts, to be to a great degree divided. The European administrator has sanctioned a structure law on e-trade, however a portion of the issues identified with this sort of exchanges can be understood just by getting a few procurements from other legitimate instruments (Mancuso, 2007).

2.2.5 Customer Protection and the Law of Conflicts in Europe

Even with nonstop globalization of business sectors, a brief take a gander at European purchaser security law uncovers a key procurement tied down in Article 5(2) of the European Treaty of Rome identifying with the law of commitments and authoritative relations. This Article 5(2), and an indistinguishable procurement found in Article 29 of the German Law of Conflicts both read, the "obligatory procurements of the law of the state" in which the purchaser has his standard dwelling place to be seen in all customer contracts, "if finish of the agreement was gone before by an express offer or publicizing in that state and if the shopper attempted in that express the lawful demonstrations required for finish of the agreement." accordingly, these prerequisites should be met in every buyer exchange on the Internet inside the setting of electronic trade. Along these lines, when the customer makes an announcement of acknowledgment or submits a request by means of the Internet in his or her nation of origin, Article 5(2) of the Treaty of Rome and similarly, in Germany, Article 29 of the Law of Conflicts, must become effective. In

Germany, for instance, the purchaser would be ensured by the advantages of the Law on Standard Business Conditions, the Law Regarding Revocation of Door-to-Door and Similar Dealings, the Law on Consumer Credits and, as in a few cases as they apply to bundle visits, Section 651(a) of the German Civil Code. From this point of view, electronic business does not seem to exhibit a specific dangers for European customers nor is there an evident need for administrative measures to enhance European shopper assurance.' However, the European Commission, through Directorate General of the Commission (DG) XXIV, identifying with purchaser security, and DG XV, relating to the inner business sector, takes an alternate perspective (Lehamann, 2000).

Conclusions

This study is concerning the electronic commerce contracts which has an increasing importance in the present legal transactions for both individuals and companies, besides states that are facing the continuing scientific developments to bring their laws up – to date and to fit the era of technology and to help serve the social economic progress among their citizens.

- Electronic commerce alludes to the paperless trade of business data utilizing electronic information exchange, electronic mail, electronic notice boards, electronic assets exchange, World Wide Web and other system based advances. E-Commerce robotizes manual procedures and paper exchange, as well as helps associations move to a completely electronic environment and change the way they work.
- Due to the negatives and positives of this kind of contracting states begin to amend their traditional laws, such as: civil code, code of civil procedure and law of evidence, and to issue new laws more suitable to treat the emerging problems by adopting new solutions.
- E – Means has helped to assume having a contract meeting between two absentees and as if it were between two present persons. Internet network allows contracting parties express their will speak directly and in the presence of both parties at the same time and access to the internet
- In request to give an abnormal state of consumer protection on the Internet to advance B2C connections and on account of applying the legally binding self-sufficiency standard as a component of flexibility of decision in customer contracts, especially on the Internet, this guideline must be restricted by other rules.

- The appropriation of the new order, and specifically the harmonization of cooling off periods, will be a valuable apparatus to improve the current enactment, at the same time, it will most likely have just a restricted effect on the certainty of European purchasers, that may keep on being undermined by different components, for example, legal elements (rule of law), social elements (national inclinations), monetary and social elements. Consumer certainty calls for consumer strengthening.
- Consumer rights protection on e-commerce is now being managed by the Distance Selling Directive and the E-Commerce Directive. In these Directives, a few urgent rights are specified, for example, the subtle elements of data that ought to be given by venders to purchasers when performing e-commerce exercises and the right to withdrawal. Despite the fact that there are a few covers between the Directives, e.g. as to the data that is required from the venders, this cover does not strife with each other and both Directives are still relevant.

Recommendations

- The benefits mentioned afore said in this topic are very few comparing with the disadvantages of e-trade and to avoid this practice especially in the matter of money laundering in the world. I have found that it is very necessary to have laws in Iraq to regulate the problems of E- trade and to halt the trend of money laundering, though banks and general corporations under and control of the Iraqi central bank.
- Formality is a must to have a security for protecting the party's rights from lost. Number one is given to the problem of defining time and place making contract. I have recommended to have an Arab uniform code in this regard and to adopt the

theory of knowledge by acceptance and annual as presumption for that knowledge by acceptance though the E- trade means

- I recommend putting policies and general basic in Iraqi laws seek to protect the consumer e-commerce and to meet their needs in a timely manner.
- The importance of time in e-commerce is one of the advantages that touch businessmen and investors so it is necessary to work to take care of the time, especially at the speed of providing information on markets, products and companies.

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