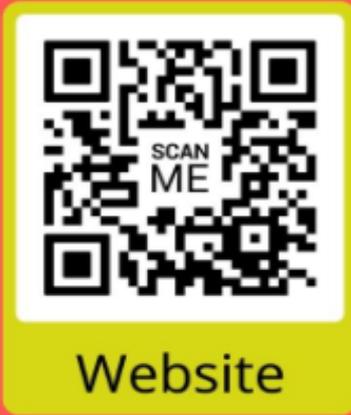


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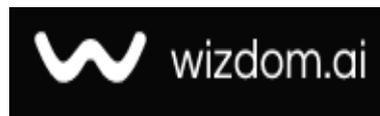
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## The Legal Challenges of Protecting the Electronic Consumer in Social Commerce in Iraq

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### Abstract

**General Background:** The rapid expansion of social media-based commercial activities has transformed digital trade, positioning social commerce as an increasingly significant component of contemporary electronic commerce systems. **Specific Background:** In Iraq, the growing use of social media platforms for online transactions has created new opportunities for business activities while simultaneously exposing electronic consumers to risks associated with indirect transactions, limited transparency, and potential fraud. **Knowledge Gap:** Despite the development of social commerce practices, the existing Iraqi legal framework does not adequately address the specific regulatory requirements of electronic consumer protection, particularly in relation to misleading advertisements, pre-contractual information disclosure, unfair contractual terms, and the evidentiary validity of electronic contracts. **Aims:** This study aims to examine the legal challenges surrounding the protection of electronic consumers in Iraqi social commerce by analyzing current legislation and identifying regulatory deficiencies. **Results:** Using a descriptive-analytical legal approach based on Iraqi consumer protection and electronic transaction laws, the study identifies significant legislative shortcomings, including weak regulation of electronic advertising, insufficient mechanisms for verifying electronic contracts, and the non-activation of the electronic signature system due to the absence of a national certification authority. **Novelty:** The research provides a structured legal analysis linking consumer protection stages pre-contractual, contractual, and post-contractual to the specific regulatory deficiencies within Iraq's social commerce environment. **Implications:** The findings indicate the necessity of legislative reform, stronger regulatory oversight, activation of electronic transaction laws, and the establishment of institutional mechanisms to secure electronic consumer rights and strengthen trust in Iraq's digital marketplace.

### Highlights:

- Identifies Major Legislative Gaps in Iraqi Regulation of Social Commerce Transactions.
- Reveals Risks Related to Misleading Digital Advertising and Unverifiable Online Contracts.
- Recommends Activation of Electronic Signature Law and Creation of Certification Authority.

**Keywords:** Consumer Protection, Social Commerce, Electronic Commerce Law, Electronic Consumer Rights, Iraqi Legal Framework.

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## Introduction

This section introduces the foundational aspects of social commerce and its implications for consumer protection in Iraq. The research focuses on the rapid growth of social media as a commerce platform, the risks for Iraqi consumers, and the need for legislative safeguards.

The advent of smartphones and mobile applications has revolutionized e-commerce, extending its reach into mobile commerce. Mobile apps provide consumers with convenience, allowing them to browse, shop, and make purchases directly from their smartphones or tablets while on the go. This shift has led to new consumer habits and expectations in the buying and selling process, with social media platforms becoming key venues for commercial activities. In the United States, social commerce sales were estimated at approximately \$27 billion in 2020, with projections anticipating this figure could reach nearly \$80 billion by 2025. These statistics reflect the significant opportunities available for businesses using social media as a sales channel. As companies strive to innovate with new marketing methods and tools, the internet has become essential for connecting with consumers, whether through direct-to-consumer models or consumer-to-consumer marketing initiatives.

In Iraq, the popularity of social commerce is rising, presenting unique challenges to consumer protection in an environment where online purchases and sales lack direct interaction. This indirect nature of social commerce heightens the risk for consumers, making them vulnerable to fraud, misinformation, and a lack of transparency regarding products. As Iraq navigates this digital shift, it is increasingly urgent to develop a comprehensive legal and regulatory framework to protect consumer rights in online transactions and to balance the relationship between buyers and sellers in a digital-first economy. This study addresses these concerns and proposes regulatory measures to safeguard Iraqi consumers engaged in social commerce.

## Methodology

The research method of this study is qualitative descriptive-analytical research to study the legal problems of protecting electronic consumers of social commerce in the scope of the Iraqi legal system. This methodology is a systematic study of existing law, judicial doctrine, and comparative legal standards with respect to electronic and social media-based commercial transactions and consumer protection. Key legal sources: Iraqi Consumer Protection Law No. 1 of 2010; Iraqi Electronic Signature and Electronic Transactions Law No. 78 of 2012; and complementary regulations on advertising, electronic contracts, and consumer rights. Here these texts are examined doctrinally in order to highlight the normative gaps, ambiguities and limits regarding enforceability that electronic consumers are facing. The comparative legal perspective is also furthered in the study with the consideration of selected foreign and regional legislations namely: French, Egyptian, Emirati and Indonesian consumer protection laws designed to learn best practices and regulatory alternatives exercised in the otherwise applicable legal environment to social commerce in Iraq. Scholarly book, peer-reviewed journal article, Master thesis, and International legal studies these and such other secondary sources are used to contribute towards the theoretical interpretations and contextualize the analysis. The frame of research underlines the consumer protection measures at the three levels of contracts pre-contractual, contractual, post-contractual with regard to misleading advertisement, transparency obligations, abusive contractual clauses, proof on the electronic contracts, and the right of withdrawal. By means of analytical synthesis, the study assesses the applicability of current legal protection and makes empirically based proposals to enhance the legislative and institutional ability of Iraq to protect and promote the interests of e-consumers and trust in social commerce transactions.

### Social Commerce: An Overview

Social commerce is a form of e-commerce that merges social media platforms with online buying and selling. This section provides an overview of social commerce's evolution and its consumer-oriented approach.

Social commerce is an emerging sector within e-commerce that utilizes social media platforms to facilitate online buying and selling. It merges social networking and e-commerce, creating dynamic, revenue-generating platforms that leverage community interactions to influence purchasing behavior. By enhancing the social aspect of shopping, social commerce allows consumers to make informed purchase decisions based on peer recommendations and community discussions. Since its rise in popularity in 2007, social commerce has been a subject of academic and market research focused on consumer behavior, website design, and user adoption, all of which impact its development. [1]

The multidisciplinary nature of social commerce draws on insights from psychology, sociology, computer science, and marketing. It emerged alongside social networking sites and Web 2.0 technologies, providing consumers with tools to integrate social media into their shopping journeys [2]. Researchers define social commerce as a model derived from e-commerce that utilizes social media to foster social exchanges, combining social activities with Web 2.0 technologies to support interactions in online shopping [3].

Social commerce platforms empower consumers by allowing them to build and share content across social networks, fostering a collaborative shopping experience where customers co-create value. Through partnerships with social networking sites, businesses enable customers to exchange information, share experiences, and leave product reviews, which play an integral role in marketing through social media-based recommendations and online communities [2][4].

### The Role of Social Media in Social Commerce

This section discusses how social media enhances social commerce by facilitating community interactions, which influence consumer behaviours and decision-making.

Social media is a cornerstone of social commerce, facilitating engagement, knowledge-sharing, and a sense of community among users. These platforms offer a multimedia format for communication, strengthening relationships and enabling consumers to stay informed and connected. This interaction shapes consumer behaviour and influences decision-making in social commerce, as public interactions on platforms such as Twitter, Instagram, and TikTok shape perceptions and drive sales [5]. Scholars, including Kshatriya & Shah and Amornkitvikai et al., emphasize the role of social media in creating a shared, immersive shopping environment that fosters loyalty and engagement [6][7].

## **The Evolution and Impact of Social Commerce**

Social commerce has revolutionized traditional e-commerce by incorporating social networking. This evolution has had significant economic impacts and has empowered consumers.

The concept of social commerce began gaining traction in 2005 when Yahoo introduced online collaboration and user ratings, laying the foundation for consumer-driven e-commerce [8]. Social commerce extends traditional e-commerce by integrating sophisticated social media networks to create social, interactive relationships that enhance buying and selling processes. This evolution of digital commerce promotes efficiency and accessibility, empowering consumers to make informed choices driven by community insights and recommendations [9]. As social commerce continues to grow, its impact on the global economy is evident, demonstrating its role as a powerful tool for consumer empowerment and business innovation.

## **The Electronic Consumer: Concept and Justifications for Protection**

Defining the concept of the consumer is of great importance in this research in order to identify the consumers who have been included in the protection system and to specify them. Accurately defining the concept of the electronic consumer requires defining the consumer in general and then the consumer in the e-commerce sector in particular.

### **The first requirement: The concept of the consumer in general**

The consumer represents the weaker party in their legal relationship with the supplier, as the conflict of interests between the two parties and the economic power of the supplier on one hand, and the inability of general rules to protect the consumer on the other hand, are among the important reasons for the emergence of the concept of the consumer. The definition of the consumer concept is the focus of jurisprudence and legislation to distinguish it from the supplier and to determine the scope of application of the laws enacted to protect the consumer [10].

The vast majority of EU legislation on the concept of "consumer" states that a consumer is any natural person acting outside the scope of economic activity (trade, business, craft, liberal profession) [11].

From this standpoint, the Iraqi legislator has followed this approach in the Consumer Protection Law No. 1 of 2010, where the consumer is defined in Article 1 of the law as: "the natural or legal person who acquires a good or service intended for use."

And the Iraqi legislator intended to expand the concept of the consumer to include anyone who contracts to meet their personal needs, but it also includes the supplier who contracts outside their professional specialization for purposes related to their profession [12].

The researcher believes that the Iraqi legislator's approach is criticized because it differs from most legislations that limit protection to individuals acting for personal or family purposes. These legislations exclude suppliers acting for their professional activities. This exclusion aligns with the purpose of enacting special consumer protection laws, considering the consumer as the weaker party in the contractual relationship with the supplier, as they lack the necessary and sufficient information about the contracted good or service. This justifies providing them with special protections that do not apply to other individuals.

### **The second requirement: rationale behind consumer protection in electronic transactions**

Domestic laws and international agreements indicate the necessity of establishing specific legislation to protect consumers, with a focus on the principle of protecting the weaker party in contracts. This comes to confront the stronger party in contractual relationships, who is usually a trader or supplier that economically and professionally outmatches the consumer. Especially in electronic contracts, where issues of fraud and deception are exacerbated due to the availability of means to display goods or services that do not match reality through websites and commercial pages established via social media. From here, several justifications for consumer protection emerge in this context, such as:

**First:** The consumer's lack of electronic information literacy makes them a weak party in the contractual relationship [12]. The consumer seeks to obtain the best products or services without sufficient knowledge of the electronic aspects, while the merchant is often a professional with detailed knowledge of trade-related matters [13]. Some legislations require a duty of information for professionals and traders, where they must provide the necessary information to the consumer, with the aim of achieving balance in the contractual relationship and protecting the consumer [14].

Some comparative legislations seek to achieve balance in this relationship through two approaches: the first is the preventive approach, which requires the trader to provide all information related to the commodity. The second is the remedial approach that grants the consumer the right to withdraw from the contract after its conclusion [15]. These two approaches aim to enhance trust and security in e-commerce transactions, thereby reducing the risks that the consumer may face and increasing their sense of reassurance when dealing with e-commerce. In the end, this balance leads to the enhancement of e-commerce relationships and makes the market more transparent and fair for all parties involved.

Consumers often lack informational and technical financing, as the global internet is available worldwide and serves as an open gateway for millions of individuals through this network, as well as through social media platforms. For the consumer, these means are a suitable place to display all types of products and services through online stores and to interact directly with what is offered online. Therefore, the consumer's lack of informational knowledge regarding how to use these means to meet their personal and family needs is one of the main justifications for consumer protection in the field of e-commerce contracts they enter into with technologically strong commercial companies and individuals who launch misleading advertisements to convince the consumer to contract with them. In this context, there must be special procedures to protect the consumer in electronic transactions due to the absence of the physical presence of the parties involved in the contract and their inability to inspect the products or services and verify their quality and suitability during the contracting process through electronic commercial platforms.

The Iraqi legislator, under the Consumer Protection Law No. (1) of 2010, mandated the punishment of all forms of fraud and deception by the producer or advertiser. The Iraqi Law on Labeling Goods No. (14) of 1937 also addressed this issue, which prohibits the release of goods from customs custody or local consumer factories unless they are wrapped in a label, with the aim of protecting the consumer.

Article (9) of the Iraqi Consumer Protection Law No. (1) of 2010, as well as Article (1) of the Iraqi Law on Affixing Labels (Bandarol) on Goods No. (14) of 1937, stipulates that "regulations may be issued to designate goods that cannot be removed from customs custody or from the factory for local consumption unless a label (bandarol) is affixed to them." Similarly, Article (10) of the Egyptian Consumer Protection Law No. (67) of 2006 stipulates that "any condition included in a contract, document, or any other agreement related to the consumer's contract is void if such condition exempts the supplier of the goods or the service provider from any of their obligations stipulated in this law."

## **Consumer's Need For Electronic Services**

With commercial websites through social media platforms. In other words, this deficiency causes a lack of consumer interest in the services and goods offered online. On the other hand, the urgent need for some services and goods offered through these online platforms meets the needs of many consumers, making these services the center of demand. From here, the necessity for an effective means to protect electronic consumers clearly and urgently emerges. [16]

The privacy of contracts in the electronic environment and the consumer's need to access goods and services require different protective measures than traditional means, which often rely on general rules such as those related to defects of will and the warranty of hidden defects. This shows that these means are insufficient to achieve the goal of consumer protection and to find the necessary balance between the parties in the contractual relationship [17]. Based on the above, this is considered a strong justification for intervention by the legislator with the aim of establishing legal mechanisms that protect the electronic consumer and prevent professionals from exploiting their need for goods and services.

The development of social media networks as a tool for e-commerce has significantly increased the number of internet users [18]. This increasing pressure on consumers attempts to attract and force them to contract online, and since consumers make up the largest part of society, and given the urgent need to protect them, consumer protection has become a necessity in light of modern technological advancement. [19]

Due to the global and open nature of the internet, the continuous development of this network, the absence of legislative authority, the lack of available information about transactions, money, and services provided, the lack of direct communication between the buyer and the seller, and the challenges related to the difficulty of verifying the service provider's identity, there is an increasing need to enhance legal protection for consumers. [20].

Due to the global and open nature of the internet, the continuous development of this network, the absence of legislative authority, the lack of available information about transactions, money, and services provided, the lack of direct communication between the buyer and the seller, and the challenges related to the difficulty of verifying the service provider's identity, there is an increasing need to enhance legal protection for consumers. [21].

## **Mechanisms for Protecting Electronic Consumers on Social Media Platforms**

With modern development, new needs have emerged for humans, and services and goods are no longer available in traditional places. Legislation has expanded to protect consumers and ensure their rights related to online services. Therefore, it has become necessary for the researcher to study the stages of concluding electronic consumption contracts.

### **Protection Before The Execution Of The Electronic Contract**

The electronic consumer is exposed to many risks before concluding the contract, and this requires extensive protection to strengthen their position, given that they are the weaker party compared to the supplier company that possesses expertise

and economic knowledge. The electronic contract carries many risks for the consumer, such as exposure to fraud, especially since the consumer often cannot inspect the contracted product in reality. The protection provided to the consumer at this stage includes shielding them from electronic advertisements, as well as the supplier's obligation to inform, enlighten, and provide comprehensive information about everything related to the sale.

## **Protecting the Online Consumer from Misleading and False Advertisements**

Advertising is considered one of the most important means used in commercial activities to achieve profit through electronic networks, and therefore it is regulated and its content is organized to protect the consumer and ensure their rights. Where consumer protection rules regarding electronic advertising require that the advertisement be clear, providing all information and data related to the service or product. This aims to enable the consumer to make an informed decision before contracting. According to French law, electronic business operations and the accompanying advertising must be clear and contain accurate information about the service or product so that the consumer can consciously and fully understand the contract before agreeing to it. [22]

Iraq suffers from a weakness in the legal regulation of commercial advertisements, leading to complications due to the absence of specific laws to combat misleading advertisements. Misleading advertising is defined as a false claim or statement intended to mislead the consumer, either by assuming incorrect facts or concealing the true facts. Advertisements must be honest and transparent to avoid deception and misleading, focusing on informing the public about the real benefits of goods and services without unjustified exaggeration. They should also avoid price manipulation or overstating the offered benefits. [23]

Misleading advertising is advertising that can deceive the consumer or mislead them about something incorrect, either by manipulating information or unjustifiably exaggerating the advantages of the advertised product or service. [24] The difference between misleading advertising and false advertising lies in the way information is conveyed to the consumer: misleading advertising uses phrases or statements that portray the product or service in a way that may suggest greater benefits than it actually has, without the statements being clearly false. This could be due to the unjustified exaggeration of advantages or the specification of a language that may be capable of making calculations. [25].

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Although the laws prohibit false advertisements, they did not clarify their impact on consumers and on the contracts that were concluded based on these misleading advertisements. Where this requires a return to the general rules related to defects of will, misleading advertising is considered a use of deceptive methods that make the product appear differently from its reality, whether through its description or by using modern techniques such as 3D images. The legal framework concerning online consumer-targeted advertisements must also be respected, as these advertisements provide additional guarantees for the online consumer in this global scope, which the legislator has established to protect the privacy of these contracts.

Based on the above, the consumer has the right, in case of any damage resulting from a false or misleading electronic advertisement, to benefit from the civil protection stipulated in the general laws. The consumer can file a fraud lawsuit as a contracting party, demanding the annulment of the contract based on the rules of contractual or tort liability. He also has the right to file a lawsuit to enforce the contractual obligation, demanding the delivery of a product that possesses the same characteristics as the advertised item. Recent legislation has adopted many preventive measures to prevent deception and misleading in electronic advertisements, such as providing accurate information to consumers about the products they purchase. These legislations have criminalized misleading advertisements, leading to the provision of protective measures for consumers. [28].

## **Protection Through Adherence to The Media**

One of the protections provided to the consumer in the period preceding the conclusion of the contract is the supplier's obligation to inform and enlighten them and to provide comprehensive information about everything related to the sale, so that the consumer is well-informed and able to make a decision that they deem appropriate based on their needs and the purpose of entering into the distance contract. [29] What matters most to the consumer when entering into contracts in general, and distance contracts in particular, is their knowledge of the seller's identity. This is because the nature of distance contracts requires clarity, based on the principle of trust and transparency, where the seller is obligated to disclose their identity online and provide answers to all the specified elements [30].

Since the emergence of new high-tech goods and products through online stores requires technical knowledge to understand their specifications and how to use them correctly and safely. It is important for the professional seller to provide the necessary information to the consumer to ensure a balance of knowledge and to guarantee that the consumer has access to all the necessary information about the product or service before concluding the contract. [31].

It is well known that adherence to previous advertisements in the contract requires providing the necessary information

about the product or service to ensure informed and proper satisfaction. This obligation is based on the principle of good faith and mutual trust, where companies must provide information to consumers before contracting [32]. This information plays a significant role in achieving customer satisfaction; if it is not provided, customer satisfaction will be threatened by a lack of insight. Therefore, the information should be presented clearly and understandably, so that the consumer can comprehend it and benefit from it correctly when purchasing goods and services from online stores.

Some studies have indicated that online shopping contributes to raising the quality level and improving the continuous standard of goods and services, all of which benefits consumers. Where buyers can, through online shopping, obtain a vast amount of information about companies, products, and prices while at home or at their locations, which gives them great freedom in choosing products and leads to a reduction in purchasing costs due to direct contact between the seller and the buyer without an intermediary or agent, and reduces market access costs, resulting in lower prices [33].

The professional seller, under the principle of good faith, must provide the necessary information on how to use the product and how to avoid potential risks. This information should also be sufficient to educate the consumer according to objective rather than personal standards. And the issue of adequate product disclosure is left to the discretion of the judge based on the circumstances of the contract and the facts [34].

One of the well-known rights of the consumer is to obtain all information related to the protection of their rights and legitimate interests. He must also have access to complete information about the specifications of the goods, in addition to learning the proper ways to use them or receive the service in the officially approved language, as indicated in Article (6) first of the Iraqi Consumer Protection Law No. (1) of 2010. [25][26]

## **Protection of The Electronic Consumer During The Period Following The Conclusion of The Contract**

The electronic contract, like other contracts, requires the presence of offer and acceptance for it to be concluded. However, the conclusion of the contract does not necessarily mean that the consumer has fully secured their rights, as arbitrary practices may arise that could affect their rights. The provider can impose arbitrary conditions on the consumer as a result of exploiting its economic power to gain unfair advantages. These abusive terms come in various forms, including those related to contract formation, defining obligations, their execution, or the consequences of non-execution.

Some legislations have sought to ensure comprehensive protection for the consumer from the arbitrary conditions that may be imposed on them. Despite the freedom granted to the consumer in electronic contracts, which allows them to choose between goods and services, the extensive advertising and promotion over the network, along with the economic power held by the providers imposing these services, lead to the consumer needing protection from the arbitrary terms that the contract may include [35]. This necessitates protecting the consumer from unfair terms in electronic contracts. The judiciary plays an important role in this regard, as part of the jurisprudence has acknowledged the necessity of judicial intervention to exclude or amend unreasonable conditions by monitoring the content of these conditions and their reasonableness from an objective standpoint [36]

The judiciary alone has the right to assess abusive conditions and can modify these conditions to alleviate the burden on the compliant party, or exclude these conditions and relieve the compliant party of this burden entirely, based on the requirements of justice. And it is not permissible to agree otherwise, so any agreement that contradicts this principle shall be considered void. [37].

One of the guarantees established for the consumer at this stage is their right to withhold performance, which is based on the idea of non-performance. The defense of non-performance is a right possessed by every contracting party in a bilateral contract, where they can refrain from fulfilling their obligation if the other party requests it until the other party performs their obligation. The defense of non-performance is linked to the right of retention, as this right is based on the existence of two obligations, each dependent on and connected to the other, whether the source of this connection is a legal act such as a contract, or a legal fact such as unjust enrichment [38].

This applies to the electronic contract in the event that the buyer fails to fulfill their obligations to pay the price at the specified time, in the agreed place, or in the manner specified in the sales contract through social media. The rules of consensual rescission can be applied in the presence of an agreement, where the contract is considered automatically rescinded without the need for a court ruling or excuses, in the event of the buyer's failure to pay the agreed price. In the absence of an agreement, judicial dissolution is applied [39].

## **Consumer Protection in The Post-Contract Phase**

After completing the stage of concluding the electronic contract with the agreement of offer and acceptance, the parties to the contract move on to the actual and decisive stage, which is the execution of the contract. At this stage, each party is committed to fulfilling the obligations arising from this contract. It is self-evident that consumer protection should extend to this stage as well, to include protection from hidden defects, as well as the right to guarantee exposure and entitlement, and the right to withdraw from the contract.

## **Protection of The Electronic Consumer in Guaranteeing Hidden Defects and Exposure:**

At this stage, the supplier undertakes to transfer the ownership of the sale or the goods to the consumer. Among the conditions for the transfer of ownership, the sold item must be owned by the seller and must be the item itself. The seller

undertakes to guarantee the absence of hidden defects in the sale and to ensure its suitability for the intended purpose. The nature of things and the purpose of the contracting parties require adherence to the warranty against hidden defects. And when the consumer contracts online with the provider to purchase a product, it is assumed that this product is free from defects and suitable for its intended purpose. Where a defect in the product is defined as a lack of safety, exposing the consumer to risk to their health, money, or body. [40].

And if the consumer is aware of defects in the product, they will not contract to purchase it and will not pay the agreed price, as consumer protection has been included in the legislation. The obligation to guarantee hidden defects is considered part of the consumer protection mechanisms in electronic sales contracts. And since health issues are the most important concern for consumers, using a product or item could lead to a real disaster. Additionally, product defects can emerge due to scientific advancements as soon as it hits the market. Accordingly, consumer guarantees have become one of the fundamental obligations borne by the supplier or provider. So when the consumer browses websites for the purpose of shopping and purchasing, and when they decide to buy a specific product or service, they enter into a contract regarding it. In most cases, it is not the manufacturer or producer who contracts with the consumer, but rather the supplier or trader who contracts with the consumer and delivers the goods. [41].

Since it is not allowed for the product to be harmful to human health, any product that causes harm, especially one that affects the consumer's health, must be recalled, and the supplier must bear responsibility for it through the warranty. The intended warranty is the warranty that arises directly from the occurrence of damage. In the case of damage affecting health, intent is not required, whereas in the case of damage resulting from the supplier's error or negligence in the product, intentionality is required. Thus, expanding the supplier's liability for defective goods and services is in favor of the consumer. Merely the occurrence of damage, even if not intentional or deliberate by the supplier, entitles the consumer to claim compensation, even if there is no actual damage, because the supplier's obligation to provide the sold product is considered an obligation to achieve a result. [35].

Among the guarantees that the consumer enjoys at this stage is the guarantee of exposure, where the buyer can benefit from the sale through an electronic contract without any interference from the seller or anyone else. And if another person disputes the sale with the buyer, the seller must intervene in the lawsuit and bear its consequences. If the sale is due to a third party, the buyer can return to the seller and recover the price and expenses. And if the beneficiary agrees to the sale, the sold item becomes the property of the buyer, and the beneficiary-seller bears the consequences of the transaction. [15] In the case of an electronic sales contract, the provisions of interference and entitlement apply the general rules of law. And in order to protect the consumer in this type of contract, it is prohibited to agree on reducing or canceling the warranty, and the legislator may annul this agreement if the seller intends to conceal the foreign right. [20].

Where Article (11) of the Iraqi Consumer Protection Law states: "Goods and services dealt with by the supplier, marketer, or advertiser are subject to quality standards and the mechanism of supply and demand concerning prices and production," the product offered for sale in the electronic market may have a hidden defect that reduces its utility or value. In this case, it is necessary to revert to the general rules to ensure hidden defects. The defect must be hidden, old, and impactful for the consumer in online shopping to rely on the warranty for hidden defects.[36] The consumer has the right to cancel the contract and demand compensation or repair the defect, and he can also resort to the seller for a guarantee of safety from the potential risks of the sold product. The seller must adhere to the safety guarantee towards the consumer according to Article (8) of the Iraqi Consumer Protection Law: "Without prejudice to the provisions of paragraph (2) of Article (6) of this law, the supplier shall be fully responsible for the consumers' rights regarding his goods or services, and his responsibility shall remain in effect throughout the agreed warranty period as stipulated in paragraph (c) of paragraph (1) of Article (6) of this law." [27][28]

## **Consumer Protection in The Right to Withdraw from The Contract.**

The right of withdrawal is the right granted to the consumer by law or by mutual agreement, which allows them to cancel the contract within a specified period without the need to provide any reasons. When exercising this right, the contract is considered as if it never existed. [5] It is also defined as the declaration of the contrary will, which is a declaration expressing the contractor's desire to retract their previous will and withdraw it, considering it as if it never existed, with the aim of ignoring any impact it may have had in the past or future. [19]

According to the Iraqi Consumer Protection Law, the consumer and any interested party have the right, in case they do not receive the information stipulated in Article (6/Second) of the law, to return the goods wholly or partially to the supplier, and to claim compensation in civil courts for the damage caused to them or their property as a result. The UAE legislator stipulated in Federal Law No. 24 of 2006 on Consumer Protection in Article (12) that "every supplier of goods is obligated to include in their contracts the commitment to repair, maintain, or provide after-sales service, and to return the goods within a specified period from the appearance of a defect." Also, Article (13) of the same law stipulates that "the service provider is obligated to guarantee the service they provided for a period of time commensurate with the nature of that service, otherwise they are obligated to refund the amount paid by the service recipient, or to perform the service again correctly." The executive regulations of this law specify the types of services and the warranty periods prescribed for each of them. [28]

Contracts are organized based on general rules and fundamental principles, as contracts are considered the most important sources of obligation. The principle of the contract as the law of the parties is considered, as no party to the contract can renounce it after signing. Each party must work to protect its rights and interests, and thereafter, it has no right to claim that it was deceived by the other party in the contract. This principle is important in binding contracts, whereas in non-binding contracts, either party or both can withdraw from the contract after signing it.

And although the electronic sales contract is one of the binding contracts, the consumer has been granted the right to withdraw from this contract at will within a specified period. The reason for granting this right is due to the circumstances under which the contract was made and the view of the consumer as the weaker party in this contractual relationship. The right of withdrawal applies to electronic contracts, including sales contracts conducted through social media. The consumer may contract quickly under the influence of the sales and marketing methods used by the seller, without being sufficiently aware of the contract terms, and this affects their freedom to express their will correctly and independently. This is what prompted lawmakers to include legal texts that stipulate the consumer's right to withdraw from the contract after its conclusion within a specified period.

The right of withdrawal from an electronic sales contract is considered a departure from the general principle, which jurists regard as a valid contract that is not binding on the consumer and a valid contract that is binding on the provider. Therefore, the right of withdrawal is a personal right subject to the consumer's discretion. The right of withdrawal from the contract is considered one of the forms of consumer protection for the "weaker party" in an electronic sales contract. When signing this contract, enticing offers are promoted that do not reflect the true nature of the products and their conformity to reality. Therefore, granting the consumer the right to withdraw from an electronic sales contract is considered essential and indispensable. And we must mention that the electronic sales contract signed by the consumer via social media or any other means is subject to consumer protection law, whether it is the law of the consumer's country of origin or the law of the country where they reside, in order to avoid fraud and manipulation in the absence of laws that protect the weaker party.

However, the Indonesian legislator addressed the necessity of having a legitimate guarantee for buyers that can be fulfilled at the time of exchange, and it must be clear. Article 4 of Law No. 8 of 1999 on Consumer Protection states (the right to be treated or served properly, fairly, and without discrimination). Article 18 of the law also stipulates the conditions for including prohibited standard clauses for commercial actors, in this case, online retail providers, which are: (online retail providers are prohibited from stating that they have the right to refuse to accept returned goods from consumers ("purchased items cannot be returned"). The consumer also has the right to return the purchased goods to the online store provider if it turns out that the goods do not match what the consumer ordered. And also (it is prohibited for online retail providers to stipulate that they have the right to refuse refunds for goods or services purchased by consumers.)

As for Article 7 of the law, which addresses the obligations of commercial actors in this case, online retail providers, it specifically states: (that they have completely good intentions when conducting their commercial activities; and provide honest, clear, and accurate information regarding the terms and guarantees of goods and/or services and provide clarifications on usage, repair, and maintenance).

## **Legal Protection for The Consumer from Issues Related to Proving Electronic Contracts**

After the consumer shops online and reviews all the goods they need in the advertised online stores, and the contract is made online, the next stage is contract execution. Some things can be delivered online, such as videos, books, and e-magazines, but some physical items that cannot be delivered online require delivery to the buyer's location. And its price is paid via electronic payment cards or in cash after the sales are delivered.

This can be observed through the widespread phenomenon of advertising sales and showcasing goods and services in Iraq via social media platforms like Facebook and others, or through the accounts of traders, companies, factories, and shops. However, the execution of the contract after signing it is done by delivering the goods to the buyer and paying for them. Nevertheless, the consumer may be exposed to risks in this case. The seller may be unknown or unavailable, making it difficult for the consumer to claim their rights. It may also be difficult to prove the electronic contract, and in the case of product rejection due to its non-conformity with the displayed images, the consumer may have to pay the shipping costs to the delivery service provider, causing harm to the consumer. The issue of certifying electronic contracts in Iraq is raised due to the non-activation of the Iraqi Electronic Signature and Electronic Transactions Law, as there is no accredited Iraqi entity to verify the validity of the electronic contract and the legal capacity of its parties.

Where Article (10) of the Iraqi Electronic Signature Law defines it. Electronic documents: "The documents and records that are created, integrated, stored, sent, or received wholly or partially by electronic means, including electronic data exchange, email, telegraph, telex, or facsimile, and bear an electronic signature." To ensure that electronic documents obtain the required legal validity, the following conditions must be met:

1. The information included in the document must be saveable and storable so that it can be accessed at any time.
2. The document must be able to be retained in the form in which it was created, sent, or received, so that the accuracy of the information included in it can be proven without the possibility of modification or deletion.
3. The information included in the document must contain details about who created or received it, in addition to the date and time of sending and receiving it. Where Article 13, first paragraph, of the Iraqi Electronic Signature Law stipulates this.

It is noted that it may be difficult for the consumer who purchases and pays for goods through social media to meet the conditions of this document, making it hard for them to prove their right.

The French legislator has adopted the principle of equal legal validity between electronic documents and paper documents. The online sales contract carries the same evidentiary weight as a sales contract in a physical store, according to Article 1366 of the French Civil Code, which stipulates this principle. Electronic writing is given the same evidentiary weight as

writing on paper, provided that the person who created it is properly identified and that it is proven and preserved under conditions that ensure its integrity.

## Results:

1. The concept of the electronic consumer: It is a person or entity that uses the internet, social media, and digital technologies to purchase and consume products and services. The online consumer relies on electronic means to search for information about products and services, compare them, and choose the best one based on product reviews and ratings online. The internet and social media allow the online consumer to engage in many activities related to online shopping.
2. The justifications for protecting the electronic consumer through social media sites are due to the latter's lack of knowledge in dealing with this network globally and the electronic commercial sites through which the consumer navigates. These sites may not be real in reality, and if we assume the actual presence of such sites and commercial pages, the services offered on these sites may differ or not meet the specifications displayed on these sites compared to the actual specifications of the product. Considering the consumer's need and lack of experience, there must be specific legal rules for protecting the electronic consumer, as general rules cannot be applied to this type of trade, such as hidden defects if these services are programs and data executed directly on the consumer's computer.
3. And although comparative consumer laws prohibit false and misleading advertising, they do not clarify the impact of misleading advertising on the consumer and its effect on the contract concluded based on the misleading advertisement. This necessitates referring to the general rules regarding defects in consent, as misleading advertising is considered deception using fraudulent methods that misrepresent the product, whether in its description or by using modern technical means such as three-dimensional images. Additionally, it is essential to respect the legal framework for advertisements directed at consumers via the internet, or what can be called electronic advertisements, which in turn provide an additional guarantee for the electronic consumer on this international network, established by the legislator to protect the privacy of these contracts.
4. The obligation of pre-contractual disclosure requires providing the necessary information about the goods and services to ensure informed and genuine consent, and this obligation is based on the principle of good faith and mutual trust.
5. The execution of the contract after its conclusion is done materially by delivering the goods to the buyer, and the buyer pays for them. However, executing the contract in this way may expose the consumer to risks, and they cannot claim their rights as the seller may be unknown or absent, which fails one of the conditions for filing a lawsuit, whether for a mistake or warranty of hidden defects and loss of description, as well as the difficulty of proving the electronic contract. In case the product is not accepted due to its non-conformity with the displayed images, the delivery person (the delivery service) demands the delivery fee, causing harm to the consumer.
6. The issue of electronic contract certification in Iraq arises due to the non-activation of the Iraqi Electronic Signature and Electronic Transactions Law, because there is no Iraqi certification authority to authenticate the electronic contract, and thus the validity of the contract, its parties, and their legal capacity can be verified.

## Recommendations

1. The necessity for the Iraqi legislator to focus on electronic legislation to keep up with the electronic revolution that the global arena is witnessing in all fields, especially commercial transactions, due to its impact on catching up with developed countries.
2. Activating the role of electronic monitoring on goods displayed on social media platforms and demonstrating their compliance with the amended Electronic Consumer Protection Law, which lacks legal provisions to regulate commercial transactions conducted through internet platforms, such as banning false and misleading advertisements that misrepresent the product either in description or by using modern technological means, including 3D images, is also necessary. .
3. The necessity of respecting the legal framework for advertisements directed at consumers via the internet, or what can be called electronic advertisements, which in turn constitute an additional guarantee for the electronic consumer on this international network.
4. The obligation for the professional seller to provide information related to the use of the item offered for sale on social media, avoid its risks, and the necessity of providing sufficient information to inform the electronic consumer before starting the purchase process. And imposing a fine on any company that refuses to display the product price electronically and only relies on the price on the package or the price privately.
5. The necessity of activating the Iraqi Electronic Signature and Electronic Transactions Law, due to the absence of an Iraqi certification authority to authenticate the electronic contract, and thus verify the validity of the contract, its parties, and their legal capacity. The Iraqi legislator should also equate electronic documents with paper documents, similar to the French legislator, to ensure proof of evidence.

## Conclusion

The present research concludes that the rapid growth within the social commerce in Iraq has led electronic consumer to face enormous legal risks which the current legal framework has failed to address properly. The results show a significant gap between the requirements of online consumer protection and the reality of the legislation in Iraq, mostly for the need for independent regulation of deceptive and misleading electronic advertising, to avoid pre-contractual information, to protect consumers from unfair contract terms, and to prove and execute electronic contracts. A deactivated system on electronic signing and certification greatly compounds the exposure to consumers because this affects the proof of legal capacity and the evidentiary value of online transactions. Satisfaction and Demand level are completely disturbed, which together deplete the consumer confidence and slow down the pace of social existence in Iraq. The analysis reveals an imperative need for a comprehensive review and reform of legislation, including updating outdated consumer protection legislation, activating electronic transaction law, and designing specific supervising and controlling framework for social commerce. More specifically, reinforcing legal security would increase market information and competition, and protect consumers as weaker part of the contract in digital transactions. This study offers suggestions for future research that includes empirical studies on consumer awareness of electronic consumer protection laws, enforcement frameworks and judicial implementation of such laws, and comparative studies on how sophisticated regulatory models have been implemented in other jurisdictions to guide economic policy in Iraq

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