



How to cite this article:

Al-Daboubi, D., & Alqhaiwi, J. (2022). Legal and regulatory framework for monitoring online stores. *UUM Journal of Legal Studies*, 13(1), 175-197. <https://doi.org/10.32890/uumjls2022.13.1.8>

LEGAL AND REGULATORY FRAMEWORK FOR MONITORING ONLINE STORES

¹Derar Al-Daboubi & ²Jalal Alqhaiwi

Private Law Department,
Faculty of Law Al-Ahliyyah Amman University,
Jordan-Amman

¹Corresponding author: deraraldaboubi@yahoo.com

Received: 6/3/2021 Revised: 8/9/2021 Accepted: 22/9/2021 Published: 31/1/2022

ABSTRACT

This study has been an attempt to find a legal and regulatory framework to monitor online stores under Jordanian legislation. The need for such a framework has become even more urgent, especially after the COVID-19 pandemic that has adversely affected traditional trade, and contributed to the increase in commercial transactions concluded via the internet. Therefore, it is necessary to understand the essence of the online store and the extent to which owners of such online stores can be subjected to the same obligations of the traditional merchant. This is to enable the relevant authorities to regulate the activities of the online store and these regulations will have to be consistent with the provisions of the country's legal framework. The present study has also identified the key challenges encountered by online stores when carrying out their activities. In conclusion, the study has proposed some suggestions which were based on existing legislations regulating

electronic commercial transactions. These suggestions were aimed at harmonizing the legislations of developing countries with the existing international legal rules regulating online stores.

Keywords: Online store, bookkeeping, commercial registry, traditional store.

INTRODUCTION

The world has recently witnessed an unprecedented interest in electronic commerce. In spite of the dramatic revolution in electronic commerce, some studies showed that in contrast to international progress, the developing countries-including the Arabs ones-have not adequately utilized digital technology in the realm of commerce (Abaza, 2015). However, with the changes that have taken place in the world after the spread of the corona virus (COVID-19), the world was confronted with critical need to adopt the e-commerce platform in the context of the online stores. This in turn, has threatened the future of the traditional brick-and-mortar business model for both national and international trade as such. The pandemic has forced governments to impose several restrictions on communities, *inter alia*, the closures of traditional stores that has encouraged consumers to switch to online shopping platforms that allow them to access goods and services that can satisfy their daily and regular needs (Dubai for the Future, 2020).

Interestingly, reports from around the world have observed some changes in consumer behavior under COVID-19 circumstances. These reports indicated that consumers have started to make purchases from home, i.e., they have gone shopping by visiting the online stores that have their own website on the internet. These reports also found that 80 percent of consumers believed that their societies have developed under COVID-19 because of the interrelation between this pandemic and the communities where they live (Wright & Blackburn, 2020). The aforesaid studies also assumed that the effect of COVID-19 upon consumer behavior in using digital shopping will continue in the future (Puttaiah, 2020). The global shopping index for the first quarter of 2020 also proved that the demand for e-commerce has achieved a growth of 20 percent over its average in the same period in 2019, namely the demand for e-commerce jumped by 12 percent over its

average in the same period in 2019, and this, of course would be at the expense of the decline in traditional trade. The percentage of visitors to online shops has increased by 16 percent in light of a 4 percent increase in spending, under the expected continuity of the global trend in e-commerce (Al-Minshawi, 2020). For example, 48 percent of Malaysians that purchasing online registered a percentage higher than that which has been noted before one month ago, and hence, it is predicted that the online transactions performed by Malaysians will not return back to the percentage recorded before the outbreak of COVID-19. (Kong, 2020).

However, there are many challenges that will hinder the spread of e-commerce in developing countries, especially so in in the case of Jordan. The most important of these challenges is the absence of appropriate legislative regulation on e-commerce operations. This includes the non-existence of a legal framework to regulate the scope of operations and management of online stores, i.e., the lack of legal regulations for the procedures of registering online stores and monitoring their activities. This, in turn, will contribute to the lack of trust among consumers who might be interested to contract with such stores. This lack of a legal framework will also will certainly impact the rights and responsibilities of all the stakeholders involved in the e-commerce transactions, as the online stores have no legal obligations, in contrast with traditional stores that are subject to existing commercial rules and regulations which apply worldwide. Such a gap in the legal framework will adversely impact the financial revenue of the affected countries, as the issue of not regulating the online stores will deprive taxation authorities of imposing taxes upon the online stores, as such stores cannot easily be identified under current circumstances (Braga, 2005).

PHYSICAL STORES VS. ELECTRONIC STORES

The essence of the commercial store was based merely on the idea of selling goods, but the legal concept of the store is still evolving up to the present time (Jajan & Faris, 2007). One of the key differences between a physical store and an online store lies in the legal framework that regulate the operations of physical stores. It is under such a legal framework that the owner of the brick-and-mortar

store is committed to general legal rules aimed at consolidating the principle of trust adopted in the context of commercial transactions, and such rules are applicable to both the individual merchant and the commercial company (Taha & Bondoq, 2008). However, the rules governing the privacy and nature of the online store, which carries out its transactions within an electronic environment, is not the same as that which is enjoined by the physical store. Therefore, one can ask: Are the provisions of the physical store applicable to the online store?

The answer to this question entails the need to distinguish between the rules of ownership under both kinds of stores and to recognize the mechanism that can be deployed for the purpose of controlling activities of each type of business model.

Physical Store Ownership and the Mechanism of Controlling its Business

Individuals and companies who conduct commercial activities using their own names and on its own account, are all deemed to be merchants that will enjoy the legal capacity to own a physical store. This has been provided for in Article 9 of the Jordanian Commercial Law, 1966 and article 10(1) of the Egyptian Commercial Law, 1999. However, Al-Oqaili (2020) stated that regardless of the fact that the physical store was considered to be an aspect of the commercial sector, it is not one of the requirements of such a profession, as the capability of the merchant to own a physical store and carry out a business through them, it is merely hinged on the condition of registering the store at the commercial registry. In contrast, Abdulsadeq (2015) held the view that the breach of the registration obligation would have no effect on the status of the person or company as being regarded as a merchant, rather it was deemed to be a breach of a legal obligation that would be subjected to legal sanctions. (Taha & Bondoq, 2008).

Moreover, the traditional system confers on the government authorities full control over all commercial transactions. Under the traditional legal frame work the relevant government agencies will be able to monitor and control the transactions of goods and services in order to assure the validity of the commercial activities concluded in the international business context.

It is worth noting that the registration of commercial operations in the transactions record acts as a legal obligation to which the merchant is committed and this will be able to guarantee all stakeholders involved that the commercial transactions are governed by a legal framework. The authenticity of such records as *prima facie* evidence can be invoked before a competent court. Such legally binding evidence can also facilitate the role of taxation officers when monitoring such commercial activities of the store for the purpose of assessing the taxes to be paid to government coffers and to combat tax evasion (Radwan et al., 1999). These measures can boost the confidence and trust of consumers when engaging in contracts with physical stores, as they can have access to the necessary information about the identity of the owner and the nature of the commercial transactions practiced by them. This is in addition to the advantage of trusting the status of the business entity and the validity of the data provided by these stores.

However, this situation has changed and is different from that which can be observed in the context of the e-commerce environment. In such a new environment the designated authorities cannot perform their role of observing the performance of the online store, as the current measures applied in the brick-and-mortar business environment are merely tailored to control activities of physical stores, not activities of the online stores.

Ownership of Online Store and the Mechanism of Controlling its Business

It is interesting to note that legislations of many developing countries -including Jordan- have neither explained how distinction can be drawn between the owner of a physical store and the owner of an online store, nor pointed out the requirements of limiting the ownership of those two types of stores to a particular class of merchant.

The online merchant, just like the traditional merchant, carries out commercial activities for the purpose of gaining profit. However, the difference between these two business models lies in the means through which they conduct their activities, as the online merchant performs its trade through internet access, i.e., through the website they have created on the internet to carry out its commercial activities. Nevertheless, this does not prevent the online merchant from being

subjected to the general rules governing the obligations of the traditional merchant, taking into account the special features of the online store and the electronic environment in which commercial transactions will take place. The special character of the online store makes it necessary to provide a legislative framework in order to control and regulate its business. For example, this regulation has to impose particular obligations upon the owner of the online store similar to that which the traditional merchant is subjected to, provided that such control and regulations have taken into account the essence of the online store which carries out its business activities in cyber space. Therefore, one can say that the internet service provider has to take part in the process of setting up the online store, as the internet service provider is the most important part as it can enable commercial transactions to be in conducted in the electronic environment (Ibrahim, 2008).

It is also worth mentioning that the name of the online store plays a fundamental role, because the local and international reputation of the online store is linked to this name, and not the name of the owner of online store. However, the owner's address and contacts must clearly and accurately be indicated in the website and also, the certificate of registration at the commercial registry and any licenses or documents granted to the online store by the relevant authorities of the state.

It is a well-known fact that both the online and physical store would like to promote their products or services to the largest possible number of consumers. This is one of the main advantages of the online store, as this virtual store has the ability to target specific groups of customers and provides access to consumers and enable them to compare the offers available at several electronic stores. The consumers can then decide on the best buy and proceed to choose which digital transaction to engage in (Maliekeh, 2017). Therefore, it is assumed that the online store gains more revenue and spends less on expenses than the physical store. This is in addition to its ability to manage and choose the best purchasing, supply, sale, transportation and insurance cover. It has also been argued that the online store is in a better position to assess its operations, inventory control and daily sales information, databases which can all be based upon the feedback of customers, which can be accessed without seeking the assistance of intermediaries between the online seller and consumers, and this will reduce the cost of commercial transactions concluded via online access. (Hussein, 2011).

Commercial contracts concluded with the online store do not differ from that which were concluded in the traditional form. This is because both commercial contracts would have imposed an obligation on both parties to the contract, but the nature of electronic contracts entails that they have to be concluded within the cyber space. However, this will give rise to problematic scenarios regarding issues of evidence and proof, as well as legislative and judicial jurisdiction that shall govern the transactional activities (Al-Botoush, 2016).

CHALLENGES OF ONLINE STORE IN E-COMMERCE ENVIRONMENT

The process of enacting a legislation regulating transactions of e-commerce is one of the main challenges confronting developed and developing countries. This is because it is difficult for such a legislation to cope with the rapid development of e-commerce transactions, and this lacuna has forced developing countries to try and adopt different approaches for the purpose of regulating the transactions made in the e-commerce environment (Allam, 2010). One of the problematic issues encountered within the virtual realm of digital commercial transactions is the absence of any official authority that can take charge of controlling the transactions performed in the context of e-commerce. The absence of this authority will give rise to the possibility of illegitimate transactions. The presence of such a legal authority can help provide the necessary legal guidance and security guarantees against risks or illegal practices taking place in the electronic commerce environment. This, in turn will contribute to an increase in consumer confidence to adopt digital commercial contracting (Salem & Awwad, 2005). There is no denying that the impact of online stores has been observed in multiple sectors in society, such as the impact on consumers, physical stores and state revenues. Therefore, countries have tended to enact the necessary legislations that can stop the deduction of customs in the realm of the e-commerce activities. These efforts have been consistent with the strategies of both the World Trade Organization (WTO) and work programs for electronic commerce approved by the General Council in September 1998. The WTO has decided not to impose customs fees on the electronic transactions, while ministers of member states continued to study the work programs until its completion in 2019. (Braga, 2005; World Trade Organization [WTO], 2019).

Absence of Online Store Legislative Regulation and its Impact on Consumers

The absence or lack of clarity in the existing regulatory framework governing the operations of online stores in many countries poses many risks and thus serious issues for the consumers or people contracting with such type of stores. This is because the scope of influence of the online store is much greater than the scope of the transactions concluded with the physical store under the free market (Alnaser, 2017).

The obstacles and challenges confronting the operations of the online store can be seen even in the stage preceding its contracting time with potential consumers to its online store. There will be issues as consumers may have doubts regarding the identity of the online stores or the nature and the legality of the services or goods offered through the websites. It should be pointed out that such concerns might also be related to issues such as the ownership of the products and this is a matter concerning a breach of intellectual property rights (Grundmann, 2002; Institute of Banking Studies, 2011). Moreover, the performance of the e-contract might further be influenced by the lack of financial competency on the part of the online store operators.

It is also worth noting that two dilemmas can be observed in the post-contracting phase. The first is the lack of trust between the contracting party to the contract entered into with the online store, as the consumer has no legal instrument through which the identity of the online seller can be ascertained. This is attributable to the non-existence of a neutral third party that can be entrusted to register the online store or to monitor its activities. This can be due to the reason that the Jordanian Consumer Protection Law 2017 was merely tailored to address the consumer's rights arising from traditional commercial contracts, not that which may arise under the e-contracts concluded with online stores.

However, the second dilemma lies in the evidential weight of the electronic contract, and this is what has been attempted to be rectified through the idea of the electronic signature (Yahyawi & Yusef, 2017), which has been regulated in the rules of the UNCITRAL Model Law on Electronic Commerce (1996) (Blythe, 2005). This has also been adopted in the Egyptian E-signature Law 2004 and the Jordanian

Electronic Transaction Law 2015. The idea of the electronic signature has not been definitively proven to be effective, as such the signature is deemed to be an optional choice which has not been activated properly, especially in developing countries that have limited the effect of this signature only to the contracting process. Therefore, the online store must seek to convince consumers of the extent of the safety of its transactions, which enables them to confirm that the online store is real and not fake (Alesawi, 2003). However, E-signature under UK and US law need to be strictly reformulated, whereas the relevant European Directives have provided an advanced definition for e-signature and model standards for entities providing certificates for e-signature (Blythe, 2005).

Registering the online store with the designated authority will enable such an authority the power to impose many obligations upon the owner of the online store, such as the obligation of disclosing the name of the owner of the online store, the means of communication used by this store, registering the store at the commercial register, policy of privacy, how to receive and solve consumers' complaints and claims, as well as declaring its taxation number. All these were aimed at consolidating the consumer's trust, provided that these requirements must be shown on the website of the online store. The owner of the online store will also be committed to provide updated information, such as sudden and urgent changes whether to the store or to the information regarding its personnel. This can be inferred from article 6 of the Saudi Electronic Commerce By-law 2020, and article 6 of its Executive Regulations. This in turn, will boost the creditability of the online store and to the reality of its existence and activities. Therefore, one can argue that it is necessary to find a proper legal framework regulating the operations of the online store and guarantees the reality of its existence. This has to be done in order to regulate how activities of the online store can be controlled and monitored, as such requirements will encourage consumers to avail themselves of such legally compliant stores. Jordan is one of the countries that should enact a law governing the legal process of establishing and monitoring the online store (The Jordanian Policies and Strategies Directorate). Although Jordan has enacted the Consumer Protection Law 2017, this law did not address the e-consumer's rights, contrary to the French and Moroccan laws that both provide such kind of protection, as provided in the French Consumer Protection Act 2014 and the Moroccan Consumer Protection Act 2011, which both

provided different measures aimed at protecting the e-consumer. The OECD efforts have also been devoted to protecting the e-consumer through the ‘Toolkit for Protecting Digital Consumers’ 2018. The Consumer Code of China, as well as the State Council of China have applied various measures for the purpose of providing legal protection of consumer rights (Binding & Purnhagen, 2011). The American Association of Public Accountants (AAPA) has also suggested a ring of trust through which the online store can prove that effective control measures have already been undertaken to protect and secure its website (Alesawi, 2003).

Absence of Online Store Legislative Regulation and its Impact on Physical Stores

Activities of the online store are considered to be uncontrolled activities under the legislations of developing countries, and this has resulted in many merchants making the move to conduct their commercial activities via cyber space instead of in the traditional brick-and-mortar environment. This of course requires the enactment of legal rules in order to regulate the activities and transactions taking place in the online environment, as well as to achieve a balance and ensure justice for the rights of electronic and physical stores. This has become particularly crucial after the imposition of lockdowns and various other kinds of restrictions for the purpose of preventing the spread of COVID-19. The pandemic has adversely impacted markets, commercial life, and employees as many of them have been forced to leave their jobs. In order to ensure equality between both the traditional and electronic commerce environments, it is important to oblige the owners of the online stores to have their store registered with a competent authority. It is the same with the traditional stores, such obligation has to be imposed through particular legal frameworks governing the environment of e-commerce, and gradually the traditional way of merchandising can be moved onto the electronic platform. This transformation has been observed in the countries which have regulated electronic commerce, online merchants and online stores. The UAE has also adopted a similar approach, as the country has stipulated that electronic merchandising cannot be practiced, unless a particular certificate has been issued. This means that before anyone can begin to conduct e-commerce, whether through a merchant’s website or through social networking sites, a license must be issued

by the Department of Economic Development in Abu Dhabi, Dubai or Sharjah (UAE Department of Economic Development, 2017).

Balancing the control of the state's authority on physical stores with that of online stores, Algerian laws have started to further regulate the operations of the latter. The Algerian Electronic Commerce Law (AECL) 2018 has stated that:

Without prejudice to the legislative and regulatory provisions in force, when electronic supplier commits, during the exercise of its activity, violations that are subject to penalty of closing the shop under the rules of the practice of commercial activities developed in a legislation, the registration of the domain's names of the electronic supplier shall be provisionally suspended by the authority designated to issue permission of practicing trade. The duration of this suspension shall not exceed thirty days.

Absence of Online Store Regulatory Framework and its Impact on Tax Revenues

The rapid worldwide spread of e-commerce transactions has resulted in depriving many countries from the opportunity of increasing their revenue taxes, which could have been a source of taxable earnings from the transactions made within the cyber space environment. This might be attributed to the difficulty of providing proof of the electronic contracts, because the owners of the online stores were not obliged to maintain commercial books documenting such transactions, and this has resulted in the inability of the taxation authority to track the commercial transactions concluded with these stores (Azzouz, 2015). The other reason for the low revenue from taxes on e-commerce transactions in these countries lies in the fact that the payments made in the context of the electronic contracts are made in a different transactional environment, via electronic or crypto currency, under which a contracting party does not record the amount of such payments, and this of course, will complicate the operation of deducting taxes and adversely affects taxation revenues. This undesirable state of affairs is due to the lack of a legal framework that shall provide the rules of determining the identity of online

stores and the monitoring of its activities (Ma'touq & I. Kammoush, 2019). In other words, the non-existence of a legal framework that obliges the online store to register at the merchant's registry is part of the problem, while the other side of this problem is the issue of not making it mandatory for online stores to declare the official site of business or its URL address in case the business is operating outside the country. Such a weakness in the existing regulation will lead to a lack of clarity of the identity and address of the e-merchant, and this in turn will impede the duty of the authorities in charge of collecting taxes (Ma'touq & Kammoush, 2019).

The absence of legislative requirements with regard to the registration of the online store in several developing countries including Jordan has provided online stores the opportunity to gain advantages exceeding those those enjoyed by the physical stores, and such an imbalance will adversely affect the principle of justice that should be considered in the context of tax collection (Bo Ezzah & Humeimish, 2017). To allow such an injustice to remain unaddressed is not just sustainable, it is therefore, critically important to find a regulatory tax regime different from that which has been applied to physical stores, and this regime has to take into consideration the electronic nature of online stores. It can further be argued that in order to combat tax evasion in the context of e-commerce, endeavors should also be dedicated to establishing a unified global legal system for tax collection, one that must be developed through a legal framework that appreciates the virtual environment of e-commerce. This common aim has led to consultations between several countries and organizations. Each one of these stakeholders are dedicated to developing the global economy, and in order to do so, there is the urgent need to establish a global tax system for e-commerce. Such a system will be aimed at safeguarding the tax revenues of the states (Abdulrazzaq & Abdulwahhab, 2020). This was enshrined in the final statement of the G-20 Summit concluded in Osaka, Japan (G-20 summit, 2019).

ORGANISING STORE ACTIVITIES IN THE E-COMMERCE ENVIRONMENT

Given the challenges that electronic commerce poses towards developing countries and physical stores, it is necessary to regulate the online environment in which activities of international trade

take place. More specifically, governments must undertake the duty of supervising, monitoring and following up on the activities of electronic stores. Some countries have assigned this responsibility to several government agencies related to commercial activities. However, what is clear is that there must be the enactment of legal rules compatible with the digital commercial environment, as the legal rules of physical trade cannot cope with the issues arising in the realm of electronic commerce. Consequently, it can be argued that approach of monitoring and supervising the electronic environment by governmental agencies armed with the proper legal framework will only then ensure the balance between the physical and electronic commercial environments. This will in turn, boost the trust between consumers and merchants contracting within cyber space, and also bolster the state's control on e-commercial transactions (Hamdi & Abdullatief, 2017).

Imposition of Obligations Upon the Owner of the Online Store

It is well-known that commercial laws in various countries impose some obligations upon the owner of physical stores (Jajan & Faris, 2007), such as the obligation to register the store at the commercial registry, commercial bookkeeping and obtaining a license to practice commercial activities. These obligations are also envisaged as necessary in the context of the online stores:

Online Store Registration at the Commercial Registry

In order for the online store to professionally conduct its commercial activities, it is necessary to provide standards and requirements that will enable the merchant to efficiently operate such a store. These requirements will contribute in avoiding the recourse to the general rules that can help to deriving some conditions or requirements for the purpose of establishing the online store, such as rules of profession and requirements of performing business by the name of online merchant and for its account. It can safely be concluded that it is important to establish a separate commercial registry for online stores, as such a registry must be able to address issues arising from the nature of such digital stores, which differ fundamentally from the traditional physical commercial stores. This in turn, will partly contribute in achieving a balance between traditional and electronic merchant with respect to monitoring their activities. This requirement has been enshrined

in article 15 of the Saudi Electronic Commerce By-law 2020, which stipulates that the online store must officially be registered at the commercial registry for the purpose of issuing a license to carry out trade, or in order to record its particulars and details. Article 13 of the Saudi Executive Statement 2020 also explains the procedure of registering the online store at the commercial registry. In articles 8 and 9 of the Algerian Electronic Commerce Law of 2018 it was stipulated that anyone practicing a commercial business through the online store shall be obligated to register its store at the commercial registry, or at the Registry of Traditional and Profession Industries (Ali, 2019).

Electronic Commercial Bookkeeping

This requirement is considered to be one of the most important obligations that commercial legislations have imposed on the online merchant. Merchants must regularly record all the details of its commercial activities through any means, so as to enable them and others to determine the financial position of the business. It will also enable the Tax Authority to assess and determine owed taxes, without resorting to the need for arbitrary estimation (Taha & Bondoq, 2008). Therefore, the existence of a competent authority is important to monitor the commitment of the online merchant to maintain a record of the relevant details in the commercial notebooks. This entails that the online merchant must be obliged to submit such books to a designated competent authority in order to ensure the validity and legality of such details in the books (Jasem, 2016). This will also ensure the validity of the data exchanged between the online store and consumers, as well as to confirm the legal obligations of the owner of the online store and the validity of its e-signature. All these can be confirmed through by showing proof of having a specific certificate, one that assures the authenticity of the source where this document came from (Mohammad & Fawzi, 2018). With a view to enhancing the reliability of electronic trading books, book records which are the equivalent to that required of owners of physical stores. The records found in these electronic trading books will ensure that the online merchant will not be able to deny the transactions that have electronically been concluded with customers. It is therefore, important to ensure that these books are able to specify the identity of the sender and recipient, with a guarantee that these books have neither been modified nor changed (Mohammad & Fawzi, 2018).

E-commercial books will enable the authorities to monitor the activities of the online stores. This can be carried out by keeping copies of the data recorded by the online merchant in these books, and this will enable the relevant authorities to endorse them when it is officially scheduled according to specific timelines to do so. Furthermore, such a requirement will further enable the designated authority to electronically monitor and endorse these books at the end of each fiscal year. For the purpose of ensuring that online stores do not engage in unlawful practices in UAE, the minister of economic and trade issued decision no. 74 year 1994, which provides that state control shall be maintained over activities of the online merchant, as well as over data the online merchant has recorded in these books (Jasem, 2016).

It has been suggested that the competent authority responsible for monitoring electronic commercial books should be affiliated to the commercial registry unit in the Ministry of Industry and Trade. These commercial books of the online stores must be electronically supported in order to ensure the validity of these books and the accuracy of their contents. Article 41 of the Algerian Electronic Commerce Law also provides that the online merchant must keep and maintain records of completed commercial transactions along with their dates and send them electronically to the National Centre for Commercial Registry. A fine will be imposed on the online merchant who does not satisfy this obligation.

Online Store Obligations Upon Obtaining a License of Practice

The privacy of some businesses requires the imposition of some restrictions on certain categories of professions. For example, merchants carrying out their respective business activities must obtain a permit or license to practice this profession. However, this permit has to be issued by a competent authority, which will then help to ensure the commitment of the potential owner of the online store to abide by the specific requirements of the license or permit.

Therefore, one can assume that it is necessary for a country like Jordan to amend the relevant legislations in order to oblige the potential online merchants to apply to a competent authority for the purpose of operating its business through an online store. As a consequence, the owner of online store shall be required to display a digital certificate

to prove it has a valid license on the website of the store. This will enhance the trust of consumers to enter into deals with the online store on the one hand, and increase the spread of online stores on the other hand.

This approach has been adopted in article 9 of the Saudi Electronic Commerce By-law. According to this article 9, the owner of the online store who practices such a profession will require a license. Thus, by law the owner of the online store must disclose the authority at which the online store has been registered, the details of the permit, the license and the accepted professional title, the country that has granted such a license and other relevant information as may be required by virtue of the stipulate regulations.

Registration of the Online Store

In addition to the aforementioned obligations imposed upon the online merchant to ensure the legality of establishing the online store, it is important to find a supervisory authority that can guarantee the legality of the transactions concluded by an online store.

Creation of Online Store Registration Authority

It can be argued that the best authority that should be given the responsibility of registering and controlling the online store is one that is affiliated to the Ministry of Industry and Trade, especially the unit in charge of registering traditional merchants and companies. This is enshrined in article 16 of the Saudi Electronic Commerce By-law, which provides that the Ministry of Commerce and Investment is the authority that can supervise the electronic commerce sector. This ministry is also entitled to issuing the necessary rules aimed at regulating the online environment, this has been deemed necessary to boost the role of the electronic commerce and to protect the integrity of the transactions taking place within its virtual space. It has become an imperative to identify a competent authority that can undertake the duty of registering electronic stores and monitor the online platforms where service providers (online stores) and consumers meet virtually.

Terms of Online Store Authentication

Several conditions must be met in order for the online store to be granted a license to conduct commercial activities. The law must be

clear that a potential online merchant must apply to the Ministry of Industry and Trade for this permission to operate. This is to ensure that applicants have fulfilled the necessary requirements when registering their online stores at the commercial registry. Article 14 of the Executive Regulations of Saudi Electronic Commerce By-law 2020, provides that the online merchant might be required to prove its commercial and technical competency to manage an online store, and also to prove that they have taken the necessary measures to protect its data and the data of other parties dealing with them. This aforementioned Article 14 also stipulates that the ownership of online stores may only be restricted to eligible commercial companies. The online store is required by law to furnish the necessary information or any urgent data requested by the Ministry of Industry and Trade.

In order to increase the creditability of the online store, Article 15 of the Executive Regulations of the Saudi Electronic Commerce By-law confers on the Ministry the right to delegate its authority to a recognized external party in order for the online store to be registered, and this in turn, will bolster the trust of electronic consumers, who are mostly located in a state other than the state in which the online store is located. This requirement has also been enshrined in Articles 8, 9 of mostly Algerian Electronic Commerce Law 2018.

Completion of Online Store Authentication Process

If licenses were to be granted to online stores, there must be a body in charge of authenticating the existence of the online stores. This authority must be able to determine the required data that must be disclosed by the applicant for the purpose of establishing the authenticity of the online store. However, the nature of this data required may vary from one authority to another, as the policies followed by each authority could be different, and therefore, the owner of the online store must provide its name, address, contacts, nationality, commercial registration, authorized endorsement, domain name, board of directors, licenses and any permits issued by competent authorities. After providing such information, a designated authority will start the process of registering this store and issuing the required certificate to operate. After that the online merchant must display this certificate on its website in order to enhance the credibility

and authenticity of its store, as provided for in Articles 17, 18 of the Executive Regulations of Saudi Electronic Commerce By-law 2020. It can be safely concluded that its necessary for Jordanian legislation to regulate penalties for all kinds of violations of the online stores, especially with regard to the illegality of its registration, improper disclosure of required information, as well as improper conduct of its business, taking into consideration that the sanction should commensurate with the severity of the violation. Sanctions can range from warning or fines, or even the closure of the errant online store, and this certainly requires coordination among the relevant authorities, as provided for in Articles 47 and 49 of the Algerian Electronic Commerce Law 2018.

Electronic Signature Effect on Online Store Performance

According to Article 15 Jordanian Law of Electronic Transactions 2015, the electronic signature plays an important role in determining the identity of contractors and ensuring the safety of the contracts concluded through the online store, in particular with regard to the endorsed electronic document transmitted from the sender through cyber space to the addressee (Abu Alhayja, 2017). The need to verify the validity of e-signature can be inferred from Article 2, 23(b) of the Jordanian Law of Electronic Transactions, as both provide that the verification of e-signature can be achieved by having recourse to a neutral third party who has the ability to electronically authenticate this signature, and this will bolster the weight of such a signature as a legal evidence of proof (Braga, 2005). This requirement has underscored the importance of the electronic signature in the context of conducting international trade and confirms its role in the spread of electronic commercial transactions worldwide. Therefore, Article 15 of the Jordanian Accreditation By-law for the E-registration Agencies and affiliated regulations stipulate that the electronic signature in the context of the electronic commercial environment has to immediately be affixed once the transaction is concluded. It is worth noting that the authentication of the electronic signature through a competent and accredited body will increase consumer trust when entering into electronic commercial contracts. This legal requirement and compliance which will result in attracting visitors to the websites related to the international commercial environment, as well as enhancing the trade exchange within such a digital environment.

In spite of the importance of the electronic signature, most of the legislations do not oblige the owner of the online store to have an electronic signature. This lacuna is also noted under Jordanian law, which has not yet addressed the matter of assigning authentication bodies for the electronic signature, and such a flaw will adversely influence the evidential weight of the electronic documents. Therefore, one can recommend that it is important for Jordanian law to impose an obligation on the owners of online stores to have the electronic signature accredited by an accreditation body. It is worth mentioning, however, that there are no international regulations binding on the countries to regulate activities of the online store, and the necessity for such a regulation lies in the fact that the commercial impact of such stores is generally extended to other states. Though some national laws have addressed activities of the online store, these laws vary from country to country with different country-specific features (Isma'eel et al., 2019).

CONCLUSION

The most important thing that distinguishes the online store from the physical store lies in the way these stores conduct their business activities. This is because the online store is internationally recognized more than the physical store, i.e., the customers who contracted with online stores are mostly located in states other than the state where the online store is located. Therefore, ownership of online store has to be regulated under national laws. The regulation should confine the right of owning online store merely on the category of merchants who can abide by the obligations of the traditional merchant that protect rights of third parties contracting with this store. However, the nature of these obligations must be consistent with the digital nature of the online store, and this can be achieved if the online store is abiding by additional obligations set to suit the unique nature of the electronic environment in which the online store conducts its activities. In many developing countries like Jordan, there is no existing legislation specifically addressing the establishment and operations of an online store. However, in some Arab countries there are some legal frameworks which have regulated the running of online stores, but these regulations did not meet the accepted standards of regulation required for online stores.

The present study has made several recommendations aimed at addressing the deficiency of the rules governing the online store. It is suggested that both the UNCITRAL Model Law for Electronic Commerce, and the Arab 7Guiding Law for Electronic Transactions and Commerce have to be reconsidered. This is in order to come up with legal rules which can adequately regulate the operations and monitor the activities of the online store, and ensure the proper registration of such stores. As for the Jordanian law, the study recommends that it is time for the country to regulate electronic commerce with a separate law, which will be different from the current Electronic Transactions Law, as this new law will combine and regulate both the electronic commerce and electronic government. The study also suggests that the proposed Jordanian Law has to adopt the appropriate legal framework to regulate the electronic store, in particular with respect to the registration of the online store with the country's electronic commercial registry. It is also recommended that the electronic signature has an important role to play and should further be further encourgaed in practice, as this will enhance the reliability of the electronic store.

ACKNOWLEDGMENT

This research received no specific grant from any funding agency in the public, commercial, or not-for profit sectors.

REFERENCES

- Abaza, M. S. (2015). E-Commerce: Arab view of reality and prospects. *International Arab Journal of Informatics*, 3(7), 31-63.
- Abdulrazzaq, M., & Abdulwahhab, S (2020). The Government is seeking to issue electronic commerce, advertising and social. *Media*. <https://www.almasryalyoum.com/news/details/1467240>
- Abdulsadeq, M. M. (2015). *The legal system for the trader in light of Arab legislations*. Dar Alfiker welqanoun.
- Abu Alhayja, M. (2017). *E-commerce Contracts*. Dar Althaqafa, 2017.
- Al-Botoush, M. Q. (2016). *The legal system of the online store* [Unpublished master's thesis]. Mu'tah University.

- Alesawi, I. (2003). *E-commerce*. Cairo: Almaktabeh Alakadeimyyeh.
- Ali, Z. B. (2019). The terms and requirements of practicing the e-commerce in Algerian legislation. *Studies in Human and Social Sciences*, 22(2), 267-283.
- Allam, R. (2010). *Obstacles of e-commerce in Arab world* [Unpublished master's thesis]. Arab British Academy for Higher Education.
- Al-Minshawi, K. Online companies top the list of winners from COVID-19 crisis. <https://www.independentarabia.com/search/site/%D8%BA%D8%A7%D8%B1%D8%AA%D9%86%D8%B1>
- Alnaser, H. S. J (2017). The impact of electronic commerce on competition in local Arab markets. <https://democraticac.de/?p=45530>
- Al-Oqaili, A. (2020). *The intermediary in explaining the Commercial Law*. Dar Althaqafah.
- Azzouz, A. (2015). Collection of Electronic Transactions. *Al-riyada for Business Economics*, 1(1), 73-85.
- Binding, J., & Purnhagen, K. (2011). Regulations on e-commerce consumer protection rules in China and Europe compared -Same same but different? *JIPITEC*, 39, 186-94.
- Blythe, C. E. (2005). Digital Signature Law of the United Nations, European Union, United Kingdom and United States: Promotion of Growth in E-Commerce with Enhanced Security. *Rich. J. L. & Tech*, 11(2), 541-58.
- Bo Ezzah, A., & Humeimish, N. (2017). Towards solving the problems of collecting e-commerce within the framework of international endeavours. *Journal of Economics and Business*, 1(2), 114-123.
- Braga, C. (2005). E-commerce regulation: New game, new rules? *The Quarterly Review of Economics and Finance*, 45, 541-58.
- Dubai for the Future (2020). Life after COVID-19. <https://www.dubaifuture.gov.ae/wp-content/uploads/reports/DFF-Covid19-Retail-ARA.pdf>
- G-20 summit. (2019). Final statement of the G-20 summit. <https://g20.org/ar/g20/Pages/documents.aspx>
- Grundmann, S. (2002). Information, party autonomy and economic agents in European Contract Law. *C. M. L. Rev*, 39, 261-78.
- Hamdi, R., & Abdullatief, M. F. (2017). *The social media merchant: Profit without Taxation*. <https://www.almasryalyoum.com/news/details/1132216>

- Hussein, I. M. (2011). *Obstacles to the success of the e-commerce in Egypt* [Unpublished master's thesis], Arab British Academy for Higher Education.
- Ibrahim, K. M. (2008). *Logistics of electronic commerce*. Dar Alfiker Alarabi.
- Institute of Banking Studies. (2011). E-commerce Highlights. (2011). 7 a bulletin issued by the European Central Bank, 86. *Monthly Bulletin October 2011* (europa.eu).
- Isma'eel, D. A., Badawati, S. O., & Majeed, A. A. (2019). Analysis of the obstacles encountering the application of e-commerce. *Alanbar University for Economics and Administration Science*, 25(11), 168-192.
- Jajan, A. & Faris, O. (2007). *Principles of commercial law*. Publications of Aleppo University.
- Jasem, F. I. (2016). Terms of E-commercial bookkeeping. *Journal of Law*, 13(1), 196-222.
- Kong, S. (2020). *COVID-19 changes consumer buying behaviors*. <https://www.theborneopost.com/2020/04/26/covid-19-changes-consumer-buying-behaviours/>
- Ma'touq, J., & Kammoush, I. (2019). The legal problems raised by e-commerce in the context of tax field. *Namaa Economy and Trade Journal*, 3(1), 120-130.
- Maliekeh, H. (2017). Legal actions on the online store. *Journal of Alba'ath University*, 39(44), 11-25.
- Mohammad, M. S., & Fawzi, T. (2018). Authenticity of e-commercial books in proving e-banking. *Alrafedeen Journal for Law*, 16(57), 198-260.
- Minister of Digital Economy and Entrepreneurship (2007). National E-Commerce Strategy. https://www.modee.gov.jo/ebv4.0/root_storage/ar/eb_list_page/
- Puttaiah, M. (2020). All Change: How COVID-19 is Transforming consumer behavior. All change: How COVID-19 is transforming consumer behaviour. https://www.modee.gov.jo/ebv4.0/root_storage/ar/eb_list_page/
- Radwan, R., Awad, R., & Alhusaini, W. (1999). Taxation in the era of electronic business, 12. http://www.arab-api.org/images/publication/pdfs/144/144_j2-2.pdf
- Salem, F. A., & Awwad, M. S. (2005). Perceived obstacles to adopting e-commerce applications in Jordanian companies. *Jordanian Journal of Business Management*, 1(1), 1-19.

- Taha, M. K., & Bondog, W. A. (2008). *Fundamental of Commercial Law*. Dar Alfiker Aljame'ea.
- UAE Department of Economic Development. (2017). <https://added.gov.ae/ar-AE>.
- World Trade Organization. (1998). Work program on electronic commerce. https://www.wto.org/english/tratop_e/ecom_e/ecom_e.htm
- Wright, O., & Blackburn. (2020). E. COVID-19: How *consumer behavior will be changed*. https://www.accenture.com/_acnmedia/PDF-123/Accenture-COVID19-Pulse-Survey-Research-PoV.pdf
- Yahyaw, N., & Yusef, M. (2017). E-commerce and its effects of the economics of Arab businesses. *Algerian Journal for Economic Development*, 6, 179-192.