Electronic Commerce Between Theory and Application According to Jordanian Law

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Abstract

Given the current circumstances and the technological advancement witnessed by the world, there has been an increase in the use of electronic commerce by countries, merchants, and consumers alike. The positive impact of this type of commerce on the development and prosperity of the national and international economy is due to the positive benefits enjoyed by consumers, merchants, and countries, such as the speed of completing electronic commercial transactions and the low costs in terms of time and effort. Studies have shown that electronic commerce has had positive effects on the economy of many countries. Despite this, the Jordanian legislator has not provided specific provisions for this type of commerce.

Keywords: Electronic commerce, Acceptance, Pure e-commerce, Partial e-commerce, Electronic means.

Introduction

Given the rapid spread of the Internet worldwide, a new term emerged at the end of the 1990s called "electronic commerce" (Laudon & Traver, 2017). This type of commerce has gained wide attention from countries, consumers, and merchants due to the speed of completing transactions and the low costs (Chaffey & Ellis-Chadwick, 2019), which has had a positive impact on the development of the economy of advanced (Laudon & Traver, 2017) and some developing countries (Lee & Lee, 2018; Al-Qirim, 2019).

Electronic (Henceforth . E-commerce) commerce has evolved and new and different types have emerged, with each type differing in nature from the other. For this reason, international and national organizations specialized in e-commerce have sought to establish legal rules to regulate e-commerce transactions. The United Nations followed this approach and formed a special committee aiming to regulate business operations by setting regulatory rules for e-commerce, called UNCITRAL. The Jordanian legislature also established a special law for e-commerce, enacting the Electronic

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Transactions Law No. (15) of 2015 for the purpose of regulating electronic transactions. Therefore, it is necessary to present and analyze these types of e-commerce for their importance in global trade (Al-Qudah, 2020; UNCITRAL, n.d.).

The significance of the study

This study derives its importance from the significance of e-commerce types and their vital role in both the national and international economy. E-commerce provides advantages for individuals, merchants, and countries, through its inclusivity and active role in strengthening and developing both domestic and foreign economies (Tatnall & Gilding, 2002). Furthermore, e-commerce reduces effort, costs, and expenses for individuals and merchants, and helps increase intellectual production and market it faster through electronic means (Chaffey et al., 2019). As a result, e-commerce has been divided into several types, which will be analyzed and examined in this study (Al-Rawabdeh & AbuAli, 2018).

The objectives of the research:

The objectives of the study are:

- 1. Identifying the types of e-commerce.
- 2. Examining the legislative regulation of e-commerce types in the Jordanian law.
- 3. Investigating the legal ambiguity surrounding e-commerce types.
- 4. Assessing the extent of e-commerce usage in Jordan.
- 5. Analyzing the advantages provided by e-commerce.
- 6. Examining the challenges faced by e-commerce.

Research problem

The problem of the revolves around the ambiguity that surrounds the legal regulation of electronic commerce types in Jordanian legislation, despite the numerous advantages of electronic commerce such as the speed of completing electronic transactions, reducing costs, saving time and effort to reach national and international markets, it lacks paper documentation, which raises questions about how the Jordanian legislator deals with types of electronic commerce, and this raises several questions, the most important of which are:

- 1. Identifying types of electronic commerce and the most common ones in Jordan.
- 2. Indicating whether the legislative regulation in Jordanian law for electronic commerce types addresses all legal loopholes.

- 3. Researching the positive effects and advantages of electronic commerce.
- 4. Identifying the difficulties that electronic commerce faces.

Previous studies

A study by Samia Damash, The Inevitability and Reality of E-commerce in Algeria, Master's thesis, Mentouri University, Faculty of Economic Sciences and Management, 2010: This study discussed the general concept of e-commerce and e-commerce patterns in terms of parties only, as well as the advantages of e-commerce and e-commerce law in Algeria. This study agrees with Samia Demich's study in that the researcher presented types of e-commerce in terms of parties. The difference between this study and Samia Demich's study is that she did not investigate the types of e-commerce according to Algerian law, while our study will be according to Jordanian law (Damish, 2010).

A study by Mohammed Takourt, The Reality and Prospects of Ecommerce in the Arab World, Master's thesis, Hassiba Ben Bouali University, 2004-2005: The researcher discussed the general concept of the digital economy and the internet, and the importance of the internet in business and e-commerce. He then discussed payment and settlement systems in e-commerce, and concluded his study with an examination of e-commerce in Arab countries, as well as obstacles and methods for activating e-commerce in the Arab world (Taqourt, 2004-2005)

A study by Amina Al-Hamdi, E-commerce and its Development Prospects in Arab Countries, Master's thesis, University of Algiers, 2005: This study discussed the concept of e-commerce and its development prospects, as well as the means that have helped it. The study reached several conclusions, including that e-commerce is now and in the future the backbone of the global economy, and an influential and important part of its system. It requires huge investments and a more open-minded vision for modern technological ideas. The study primarily focused on the importance of e-commerce at present, and on the e-commerce environment, because it has become a living reality. The difference between Amina Al-Hamdi's study and this study is that she did not analyze the types of e-commerce, as she only referred to the general concept of e-commerce in the Arab world, unlike this study which will analyze them according to Jordanian law (Hamdi, 2005).

Study methodology

In this study, the researcher will rely on:

- Descriptive methodology: This will be done through reviewing types of e-commerce and legal texts, providing information and data in this study, and presenting them according to the adopted methodology.
- Analytical methodology: This will be done through analyzing types of e-commerce in terms of their nature and parties involved, as well as the laws regulating them, analyzing the opinions of jurists related to them, and analyzing legal texts and the opinions of jurists related to this matter, according to the adopted methodology.

Types of E-commerce in terms of the nature of commercial transactions

For e-commerce, there are different types that depend on the nature of the legal transactions, so in the first section of this chapter, the researcher will discuss pure e-commerce, which involves transactions that occur entirely electronically from start to finish, without the need for physical presence. Then, in the second section, the researcher will discuss partial e-commerce, which involves some physical work, and thus, not all aspects of the transaction are entirely electronic.

2.1 Pure e-commerce

Pure e-commerce is a type of e-commerce that is completed entirely through electronic means without the need for physical elements (Molla & Licker, 2005). In Jordanian law, the regulation of pure e-commerce is governed by the Electronic Transactions Law No. (85) of 2001, which defines electronic transactions and electronic records, as well as the requirements for their validity and enforceability (Abu-Arqoub, 2017). Examples of pure e-commerce in practice include online shopping platforms such as Amazon, eBay, and Alibaba. One of the characteristics of pure e-commerce is its ability to provide global access to goods and services, regardless of physical location (Timmers, 2000).

2.1.1 Definition of Pure E-commerce and its Legal Regulation in Jordanian Law:

Pure e-commerce is becoming increasingly important for consumers, merchants, and countries alike due to its ability to conduct all commercial transactions through electronic means, eliminating the need for physical presence (Molla & Licker, 2005). In pure e-commerce, all contracts and legal transactions are executed entirely within the electronic environment, from the moment of offer and acceptance to the fulfillment of the commitment to delivery, without any physical intervention (Bai, 2020). This has numerous advantages, including reduced costs and increased convenience for both

consumers and merchants, as well as increased efficiency and speed in processing transactions (Molla & Licker, 2005. Obaidat, 2018).

Therefore, pure e-commerce is a type of e-commerce that includes all the elements of the commercial process entirely through electronic means, from displaying goods to selling and electronically receiving them without the need for physical presence for any of the parties involved.

2.1.2. The legal regulation of pure e-commerce in Jordanian law

The Jordanian legislator did not specify specific provisions that regulate pure e-commerce, which leads us to apply the general rules of e-commerce found in the Electronic Transactions Law and the Jordanian Commercial Law. The researcher believes that the legislator should establish specific rules regulating pure e-commerce and other types of e-commerce to achieve legislative stability for each type of e-commerce, as they have become a popular trade in local and international societies. Knowing the rules that regulate each type of e-commerce ensures legal security, which leads to building trust among e-commerce traders (Al-Obaidat, 2018; Al-Qudah, 2019; Al-Tamimi, 2016).

2.1.3 Characteristics of pure e-commerce and examples of it.

2.1.3.1 Characteristics of pure e-commerce:

Reliance on electronic media in all stages (Chaffey, 2015). All elements of e-commerce are carried out through the internet, and expression of acceptance and approval is done electronically from both parties until the delivery of the specified goods, payment of the price, and other operations that are all conducted through various electronic means.

No need for physical presence (Laudon & Traver, 2021). Pure ecommerce facilitates the completion of the commercial transaction, as it does not require the physical presence of any party during delivery or payment, because the main feature of this process is that it is carried out through electronic means, even if the parties are in different countries.

Reduction of costs of movement between the parties to the contract (Turban et al., 2020). Pure e-commerce is not like traditional commerce, which requires the physical presence of the parties for delivery or payment, or traveling from one country to another, resulting in additional costs for both parties to the contract. The important feature of pure e-commerce is that it has reduced the cost of transportation for both parties, whether by transporting goods or traveling by purchasing air tickets and other examples that entail additional costs for both parties to the contract.

2.1.3.2 Examples of pure e-commerce:

- 1. E-Books: E-books can be purchased, sold, and received without the need for physical presence, which makes it easier in terms of time, effort, and transportation costs for both parties to the e-commerce contract.
- 2. Electronic Software: Major global companies have made it possible to purchase electronic software through electronic means, receive it, and pay for it without the need for physical movement from one place to another or from one country to another, which has made many things easier for the parties involved in e-commerce.
- 3. Electronic Money: Parties can buy or transfer electronic money between several countries quickly and flexibly through electronic transfer of money from one country to another or by purchasing electronic currencies that have been recently released, which makes things much easier for the parties involved in e-commerce.

2.2 Partial E-commerce.

Partial e-commerce is a type of e-commerce that combines elements of both traditional and e-commerce in terms of the nature of commercial transactions. This type of e-commerce requires the presence of a physical element in one of the commercial process's elements, making it a hybrid between traditional and e-commerce. In this section, the researcher will define partial e-commerce, explore its legal regulation in Jordanian law, provide examples, and discuss its characteristics.

2.2.1 Definition of partial e-commerce and its legal regulation in Jordanian law

Partial e-commerce is the type of commerce where one of its elements is accomplished through traditional methods while the rest of the elements are accomplished through electronic means (Alshurideh & Al-Adwan, 2015). The commercial process is mixed, where one element is traditional while the others are electronic. An example of this is when one party of the electronic commercial contract has a physical presence through the delivery of goods or payment. "The legal actions in this type of e-commerce are a mixture of traditional and electronic commerce" which led to the emergence of a type called partial e-commerce. We can define this type of commerce as a type of e-commerce where one of its elements is accomplished through traditional methods due to the need for a physical presence in one element of the e-commerce process, while the rest of the elements are accomplished through electronic means.

The Jordanian legislator did not refer to specific provisions that regulate partial e-commerce in the Electronic Transactions Law, which leads to the application of general rules for e-commerce in the Electronic Transactions Law and Jordanian Trade Law (Al-Qudah & Al-Jaghoub, 2020). The researcher believes that the legislator should establish specific rules regulating partial e-commerce to grant it independence, as the regulating rules would regulate this type of e-commerce, which would lead to the development of laws related to e-commerce in Jordan (Al-Qudah & Al-Jaghoub, 2020; Alomari, 2020).

2.2.2 Characteristics of Partial E-commerce and Examples

In this section, the researcher will discuss the characteristics of partial e-commerce and provide examples of partial e-commerce, as follows:

2.2.2.1 Characteristics of Partial E-Commerce:

- 1. Electronic media dependence: Some elements of partial ecommerce rely on various electronic media to display goods, attract customers, and achieve acceptance and approval through a mix of electronic and traditional commerce processes. This type is sometimes referred to as "mixed" because it relies on both electronic and traditional methods. (Brynjolfsson & Smith, 2000).
- 2. Combination of electronic and traditional commerce elements: Partial e-commerce involves a mix of electronic and traditional commerce elements, with some aspects taking place through various electronic media and others requiring a physical presence, such as displaying physical goods, which may be completed electronically, but delivery requires a physical presence (Lee & Clark, 2000).
- 3. Lower costs than traditional commerce: Partial e-commerce can help lower costs compared to traditional commerce by reducing the need for physical transportation of goods and enabling faster transactions (Hausman & Associates, 2000).

2.2.2.2 Examples of partial e-commerce:

- 1. Printed books: Parties can purchase printed books through electronic means, but due to the tangible nature of printed books, there is a need for physical presence to receive the book, which requires electronic books to be delivered. (S. L. Vargo & R. F. Lusch, 2016)
- 2. Mobile phones: Many e-commerce websites offer a range of mobile phones for sale to consumers. The display and acceptance are done electronically, but the delivery of the phones requires physical presence due to the tangible nature of the item. (Y. K. Dwivedi et al., 2019).

Types of e-commerce based on the parties involved in the transaction.

Electronic commerce differs with the different parties involved in the commercial transaction into multiple types. Through this topic, the researcher will discuss mixed electronic commerce, in which the commercial transaction is conducted between the merchant and the consumer or between the merchant and the state in the first section. In the second section, the researcher will address non-mixed electronic commerce, in which the commercial transaction is conducted either between merchants or between consumers.

3.1 Mixed E-commerce

E-commerce is divided into several types (Vargo & Lusch, 2016), but in this study, we will focus on the most common types. The first type is e-commerce between business and consumers, which will be studied in the first section. This type of e-commerce involves the exchange of goods and services between a business and a consumer through digital channels (Dwivedi et al., 2019). The second type is e-commerce between businesses and governments, which will be studied in the second section. This type of e-commerce involves the exchange of goods and services between a business and a government agency through digital channels (Laudon & Traver, 2017).

3.1.1 E-commerce between Business and consumers (B to C):

In this section, the researcher will discuss the general concept of e-commerce between merchants and consumers, as well as the legal regulation of e-commerce between merchants and consumers in Jordanian law, as follows:

3.1.1.1 The general definition of e-commerce between business and consumers (B to C):

This type of e-commerce, known as Business-to-Consumer (B2C), is a direct method of selling goods and services from the merchant to the consumer through a website or online platform. It has gained popularity due to its convenience and accessibility for consumers (Aldholay et al., 2018). The merchant is able to express their offerings on the website, with no intermediaries involved, allowing for a more direct and cost-effective transaction (Wang et al., 2021).

E-commerce between businesses and consumers is a form of electronic retailing and is the most widely used type of e-commerce among consumers (Lin et al., 2017). Some popular examples of B2C e-commerce platforms include Amazon.com, Barnes & Noble.com, and online customer support (Sulaiman et al., 2021).

3.1.1.2 the legal regulation of e-commerce between the business and the consumer in Jordanian law

The Jordanian legislator did not mention any specific provisions regulating e-commerce between the merchant and the consumer in the Electronic Transactions Law. This leads to the application of general rules of e-commerce to the type of e-commerce between the merchant and the consumer (Al-Abdallah,2016). The researcher believes that the legislator should establish specific regulations for e-commerce between the merchant and the consumer in order to create a legislative stability for this type of e-commerce, given the increasing number of consumers who use this type due to its advantages and features that benefit both them and the merchants. This is also necessary to achieve legal security for the parties involved and to know the regulating rules that will govern e-commerce transactions between the merchant and the consumer.

- 3.1.2: E-commerce between the business and the government (B to G): In this section, the researcher will discuss the general concept of e-commerce between the merchant and the government, and the legal regulation of e-commerce between the businesses and the government in the Jordanian law, as follows:
- 3.1.2.1 The general concept of e-commerce between the Business and the Government (B to G)

The e-commerce model between the business and the government consists of various types of transactions and deals that are concluded and executed electronically between the merchant and the state, such as purchasing goods, expenses, and services. The reason for the government's use of this type of e-commerce is due to its many characteristics and benefits, including saving time, effort, and costs, as well as obtaining the best offers provided by merchants through electronic means. This model covers all transactions between companies and government entities, such as tax payments and transactions between companies and government administration entities (Al-Jawari, 2010).

E-commerce has several benefits for the government (Damish,2010) such as improving administrative efficiency and cost optimization, improving service quality, and promoting business growth. The state can offer procedures, transactions, or bids through the Internet, and merchants can choose to accept or reject these offers, all of which are done through electronic means, saving effort and costs for merchants.

3.1.2.2 The legal regulation of e-commerce between the business and the government in Jordanian law

As noted by Damish (2010), the Jordanian legislator did not mention specific provisions that regulate e-commerce between the business and the government in the Electronic Transactions Law. This leads to the application of general rules for e-commerce on the pattern of this trade. Therefore, it is necessary for the legislator to establish specific rules regulating e-commerce between the business and the government due to the importance of this type of trade and the prominent role of e-commerce in speeding up transactions and saving time and effort.

3.2 Non-Mixed E-commerce.

Non-mixed e-commerce is divided into two types: e-commerce between businesses, which will be studied in the first section, and e-commerce between consumers, which will be studied in the second section.

3.2.1 E-commerce between Businesses (B to B)

In this section, the researcher will discuss the general concept of ecommerce between businesses, as well as the legal regulation of ecommerce between merchants in Jordan, as follows:

3.2.1.1 the general concept of e-commerce between businesses (B to B)

Traditional trade has been flourishing between traders for centuries, and recently electronic commerce has emerged between merchants, which has given advantages to traders in terms of payment, invoice delivery, and offering goods and services through electronic means without the need for physical presence. This has led to many benefits, such as fast transaction processing, time and effort savings, reduced travel costs between traders and instilling trust among traders through electronic documentation of parties. An example of this type of commerce is when Dell sells its devices to commercial companies through electronic means (Alasadi, 2020).

This pattern occurs between one company and another, in other words, between companies through communication networks and information technology. A company uses this network to place purchase orders to suppliers and vendors, deliver invoices, and complete payment processes. This pattern of e-commerce has existed for many years, especially in electronic data exchange from private networks (Zhou & Dai, 2020). Additionally, the use of e-commerce has grown rapidly in recent years, particularly in the wake of the COVID-19 pandemic, as many businesses have had to shift to online sales and operations to survive (Molla & Licker, 2021).

3.2.1.2 The legal regulation of electronic commerce between businesses in Jordanian law

According to a study by Al-Soud and Al-Qudah (2015), the Jordanian legislator did not provide specific provisions for regulating electronic commerce between merchants in the Electronic Transactions Law, which results in the application of general rules for electronic commerce found in the Electronic Transactions Law and the Jordanian Trade Law. The researchers recommend that the legislator establish special rules to regulate electronic commerce between merchants given the significance of this type of commerce, as most transactions in the field of electronic commerce are conducted between businesses.

3.2.2 E-commerce between consumers (C to C)

In this section, the researcher will discuss the general concept of electronic commerce between consumers (C to C), and the legal regulation of electronic commerce between consumers in the Jordanian law. This will be done as follows:

3.2.2.1 The general definition of e-commerce between consumer and consumer (C to C):

Consumer-to-consumer (C2C) e-commerce is a type of commercial activity in which individuals engage in buying and selling goods through electronic means with the intention of making a profit. According to Article 6 of the Jordanian Trade Law No. 12 of 1966, such activity is considered commercial, regardless of whether or not the consumer is a merchant. This includes purchasing goods or other movable property with the intent of selling them at a profit, either in their original state, after processing, or transformation, as well as trading commercial papers. (Al Mousa, 2017)

The Open Market website, which has recently gained popularity in Jordan, is an example of C2C e-commerce, where consumers or merchants offer various goods and services for sale to consumers. (Hijazi, 2019)

Through this type of e-commerce, individuals engage in direct buying and selling over the Internet. For example, when a consumer places an advertisement on their website or another website in order to sell one of their own belongings or expertise (Al-Attiyat, 2007).

3.2.2.2 The legal regulation of consumer-to-consumer e-commerce in the Jordanian law

The Jordanian legislator did not refer in the Electronic Transactions Law to specific provisions regulating consumer-to-consumer ecommerce, which leads to the application of general rules for ecommerce found in the Electronic Transactions Law and the Jordanian Commercial Law (Al-Qudah,2018). The researcher believes that the legislator should establish specific regulatory rules for such transactions because of the rapid spread and continuous trade of this type of commerce, and in order to achieve legal security for all consumers who engage in such transactions

Conclusion

Through research on the Jordanian legislative system, specifically in the Electronic Transactions Law No. (15) of 2015 and studying the types of e-commerce, the researcher concluded an important result that e-commerce has become an important player in the lives of individuals, merchants, and countries due to its role in exchanging electronic data, providing electronic markets, and the impact that e-commerce has had on society and the economies of developing and advanced countries. E-commerce is important for various groups and its nature does not differ from traditional commerce except that it is conducted through electronic means. E-commerce has become a reality that must be dealt with and its advantages must be utilized. The researcher has reached a number of conclusions and recommendations. Some of which are below:

4.1 Results

- 1. Despite the development of the legal framework for e-commerce in recent years, Jordanian legislation has not provided specific provisions regulating types of e-commerce.
- 2. E-commerce has become a source of income for many individuals, companies, and countries around the world, as it has helped consumers and businesses accomplish their tasks from their homes, which has resulted in reducing the cost of moving from one place to another.
- 3. E-marketplaces have become like traditional markets, where all goods and services are available, resulting in positive and tangible effects on the economies of developing and advanced countries.
- 4. E-commerce has yielded positive returns for consumers and businesses through fast transaction processing and time and effort savings.

4.2 Recommendations:

1. Develop specific provisions for each type of e-commerce by regulating specific texts that regulate types of e-commerce, which is in the best interest of consumers and businesses.

- 2. Add specific provisions to protect consumers in e-commerce, as in traditional commerce, as the consumer party is considered the weaker party in commercial transactions.
- 3. Establish a specialized entity in Jordan to provide legal security for e-commerce transactions.
- 4. Introduce a new course in university curricula on e-commerce due to the importance of this commerce at present

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