



Legal Protection Mechanisms for Electronic Consumers from Misleading Advertising

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ABSTRACT

This study addresses the legal protection of electronic consumers from misleading advertisements. Fair electronic advertising is a fundamental requirement of e-commerce and a means for advertisers to promote their products. However, violations of advertising integrity rules occur in attempts to mislead consumers. Considering that the electronic consumer is a weak party in electronic commercial transactions, the Algerian legislator has established legal protection through several laws enshrining the principles of transparency and establishing penalties for violations by electronic suppliers.

Legal systems vary between countries in the level of protection provided, with developed countries advancing comprehensive legislation and effective mechanisms compared to developing countries still striving to keep pace with technological developments. Addressing these challenges requires developing national legislation, enhancing international cooperation, investing in advanced monitoring technology, and intensifying consumer awareness programs on digital rights. This contributes to building a safe and reliable e-commerce environment that effectively protects consumer rights from misleading and fraudulent business practices.

INTRODUCTION

Electronic commerce has transformed commercial transactions globally, enabling consumers to purchase goods and services across borders with unprecedented ease. However, this development has exposed consumers to new risks, particularly misleading electronic advertising. The rise of influencer marketing has blurred the line between genuine opinion and paid endorsement, creating new vectors for consumer deception that traditional legal frameworks struggle to address.¹

The Algerian legislator has drawn on comparative models, including the European Union's Digital Services Act² and Directive 2005/29/EC,³ the American FTC⁴ framework, and British consumer protection regulations.⁵ At the soft-law level, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023)⁶ call on enterprises to ensure that market-

ing and advertising are fair and not misleading, and that consumers receive accurate information about products and services. Recent comparative research demonstrates that challenges arising from data-intensive business models and cross-border e-commerce weaken the overall effectiveness of legal protection for electronic consumers, calling for more harmonised rules and enhanced cross-border cooperation.⁷

The European regulatory architecture for electronic commerce rests on two complementary instruments. Directive 2000/31/EC of 8 June 2000 on electronic commerce⁸ established the foundational legal framework for information society services in the internal market, including specific requirements for commercial communications under Articles 6 and 7. Article 6 mandates that commercial communications be clearly identifiable as such, that the natural or legal person on whose behalf they are made be clearly identifiable, and that promotional offers and conditions be easily accessible and presented clearly and unambiguously. This transparency-based approach sought to prevent consumer deception by ensuring that electronic advertising could be distinguished from other content. Twenty-two years later, Regulation (EU) 2022/2065 (Digital Services Act) amended this directive to address new challenges posed by online platforms, including the dissemination of misleading information and manipulative interface designs, while preserving the foundational liability framework established by Articles 12-14 of Directive 2000/31/EC.⁹

- 1 Mukherjee, S. (2025). Social media and e-commerce: A study of the legal issues in influencer marketing and online advertising with special reference to India. *International Journal for Multidisciplinary Research*, 7(3), 1-12. <https://doi.org/10.36948/ijfmr.2025.v07i03.45519>.
- 2 European Union. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act). *Official Journal of the European Union*, L 277. <http://data.europa.eu/eli/reg/2022/2065/oj>.
- 3 European Union. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market (Unfair Commercial Practices Directive). *Official Journal of the European Union*, L 149, 22-39. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32005L0029>.
- 4 Federal Trade Commission. (1983). Policy Statement on Deception. https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf.
- 5 United Kingdom. (2008). Consumer Protection from Unfair Trading Regulations 2008, SI 2008/1277. <https://assets.publishing.service.gov.uk/media/5a74d389e5274a3cb28677f4/oft1008.pdf>.
- 6 Organisation for Economic Co-operation and Development. (2023). OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. OECD Publishing. <https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/oecd-guidelines-for-multinational-enterprises-on-responsi->

- 7 ble-business-conduct_a0b49990/81f92357-en.pdf.
- 7 Babayev, J. (2023). Safeguarding consumer rights in the digital age: Challenges and strategies. *Uzbek Journal of Law and Digital Policy*, 1(1), 1-11. <https://doi.org/10.59022/ujldp.70>.
- 8 European Union. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act). *Official Journal of the European Union*, L 277. <http://data.europa.eu/eli/reg/2022/2065/oj>.
- 9 European Union. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act). *Official Journal of the European Union*, L 277. <http://>

The Algerian legislator issued E-Commerce Law 18-05 dated May 10, 2018,¹⁰ and Law No. 09-03 of February 25, 2009, relating to consumer protection and suppression of fraud.¹¹ Recent Algerian scholarship has examined Law 18-05 as a comprehensive framework for protecting online consumers, with particular focus on pre-contractual information duties and safeguards against misleading electronic advertising, though important gaps remain, including the lack of an explicit definition of misleading electronic advertising.¹²

This study aims to clarify the most important aspects of legal protection for the electronic consumer from misleading advertising, evaluate the adequacy of national legal texts in comparison with international standards, and urge electronic advertisers to adhere to legal rules to avoid unfair practices.

This topic raises an important problem: *To what extent do current legal mechanisms for protecting the electronic consumer fit with the challenges posed by misleading electronic advertising in the contemporary digital environment?*

Several hypotheses branch out from this main problem:

First, how can traditional legal frameworks keep pace with the rapid development of advanced digital advertising technologies?

Second, current legal mechanisms for protecting electronic consumers suffer from legislative and enforcement gaps that limit their effectiveness in confronting advanced methods of misleading advertising, which calls for the

development of innovative legal approaches that combine technical flexibility with effective protection;

Third, protecting consumers from misleading advertising requires incorporating technical standards into legal texts;

Fourth, effective regulation requires unified international cooperation mechanisms between regulatory authorities.

METHODOLOGY

This study employs analytical, descriptive, and comparative approaches to examine the legal texts governing electronic consumer protection from misleading advertising. The analytical approach deconstructs the research problem and extracts protective provisions from relevant legal texts. The descriptive approach provides a deep understanding of fundamental concepts such as electronic consumer, electronic advertising, and misleading advertising. The comparative approach encompasses three dimensions: horizontal comparison between different legal traditions (Anglo-Saxon, civil law, mixed systems), vertical comparison between regulatory levels (international soft law, regional instruments, national legislation), and temporal comparison tracking the evolution of consumer protection legislation from Directive 2000/31/EC to the Digital Services Act. The study is divided into two chapters: the conceptual framework for misleading advertising and the legal basis for electronic consumer protection (Chapter One), and legal mechanisms to protect the electronic consumer from misleading electronic advertising (Chapter Two).

1. The Conceptual Framework for Misleading Advertising and the Legal Basis for Electronic Consumer Protection

Commercial advertising plays a major role in influencing consumer behavior. However, consumers may be exposed to deception through

data.europa.eu/eli/reg/2022/2065/oj

10 Algeria. (2018). Law No. 18-05 of May 10, 2018, relating to electronic commerce. Official Gazette of the People's Democratic Republic of Algeria (JORA), No. 28. <https://www.joradp.dz/FTP/jo-francais/2018/F2018028.pdf>.

11 Algeria. (2009). Law No. 09-03 of February 25, 2009, relating to consumer protection and the repression of fraud. Official Gazette of the People's Democratic Republic of Algeria (JORA), No. 15. <https://www.joradp.dz/FTP/jo-francais/2009/F2009015.pdf>.

12 Kettab, Z. (2025). Legal mechanisms for consumer protection under Algerian e-commerce law. *Journal of Law and Sustainable Development*, 13(1), 1-18. <https://doi.org/10.55908/sdgs.v13i1.4261>.

advertising, and therefore, adequate legal protection must be provided. Modern legislation has tended towards criminalizing false claims and misleading advertising.

1.1. Definition of misleading advertising

The dishonest practice of false statements and impressions made by advertisers to persuade consumers to make a purchase is known as deceptive advertising.¹³ The Internet in e-commerce is a double-edged sword: facilitating commercial exchanges while also enabling crimes. Legislative intervention is necessary to control the consumer process in this virtual environment.

1.1.1 Definition of misleading advertising in Algerian law

The crime of misleading electronic advertising is considered a form of information crimes in which the victim is the electronic consumer,¹⁴ whom the Algerian legislator defined in the Electronic Commerce Law 18-05, Article 06, as “any natural or legal person who acquires, for compensation or free of charge, a good or service through electronic communications from the electronic resource for the purpose of end use”.¹⁵ Misleading electronic advertising is defined as an advertisement in which the advertiser uses false words or phrases about the essential characteristics of the product or service advertised electronically, leading to consumer deception.¹⁶

The Algerian legislator did not provide an explicit definition, but defined electronic advertising requirements under Law No. 18-05.¹⁷ Law 09-03 considers advertising that deceives consumers through writings or publications as an aggravating circumstance for the misdemeanor of deception.¹⁸ Article 28 of Law 04-02 relating to commercial practices states that all misleading advertising is illegal and prohibited, especially if it includes misleading information about product definition, quantity, availability, or features, or could lead to confusion with another seller's products.¹⁹

1.1.2 Definition of misleading advertising in comparative legislation

Comparative legal systems converge on three constitutive elements of misleading advertising: (1) the presence of false, inaccurate, or incomplete information; (2) the capacity to influence the economic decision of the average consumer; and (3) the deliberate omission of material information.

At the European Union level, Directive 2005/29/EC establishes a harmonised prohibition of unfair commercial practices, including misleading actions and omissions that materially distort the economic behaviour of the average consumer.²⁰ Recent scholarship defines evolving deceptive techniques as “dark patterns”, interface designs deliberately crafted to manipulate user autonomy and steer consumer choices.²¹ This development is reflect-

study (in Arabic). *Journal of Legal and Economic Research*, 13(86), 1-41, 4. <https://doi.org/10.21608/mjle.2023.340162>.

17 Law No. 18-05, Art. 30.

18 Law No. 09-03, Art. 69.

19 Algeria. (2004). Law No. 04-02 of June 23, 2004, defining the rules applicable to commercial practices (as amended). *Official Gazette of the People's Democratic Republic of Algeria (JORA)*, No. 41. <https://www.jo-radp.dz/FTP/jo-francais/2004/F2004041.pdf>.

20 European Union. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market. *Official Journal of the European Union*, L 149, 22-39. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32005L0029>.

21 Yi, W., Li, Z. (2025). Mapping the scholarship of the

13 Ahmed, A. M. A., Othman, A. K. (2024). The effect of false advertising on consumer online purchase behavior with mediating effect of e-WOM: Consumer in Malaysia. *Information Management and Business Review*, 16(2(I)S), 115-128. [https://doi.org/10.22610/imbr.v16i2\(I\)S.3774](https://doi.org/10.22610/imbr.v16i2(I)S.3774).

14 Lasami, R. B. D., Kahoul, W. (2022). Misleading electronic advertising: A new side of cybercrime (in Arabic). *Journal of Law and Political Science*, 9(1), 714-728. <https://asjp.cerist.dz/en/article/186120>.

15 Law No. 18-05, Art. 6.

16 Abu-Kaif, A. M. (2023). Consumer protection from misleading electronic advertising: A comparative

ed in the Digital Services Act, whose Article 25 prohibits designing interfaces that deceive or manipulate service recipients.²² Annex I complements this framework with a blacklist of practices that are in all circumstances unfair, several of which directly target misleading advertising techniques such as bait advertising, bait-and-switch strategies, false endorsements, and advertorials.²³

The interaction between the E-Commerce Directive and unfair commercial practices legislation creates a layered regulatory framework. While Directive 2000/31/EC establishes formal transparency requirements for commercial communications—mandating clear identification of advertising content and the advertiser's identity—Directive 2005/29/EC addresses the substantive truthfulness of such communications by prohibiting misleading actions and omissions. This complementary structure means that electronic advertising may violate European consumer protection law either by failing to meet formal identification requirements (Article 6 of Directive 2000/31/EC) or by containing materially misleading content (Articles 6-7 of Directive 2005/29/EC). The Digital Services Act reinforces this framework by imposing additional due diligence obligations on online platforms, including the prohibition of deceptive interface designs under Article 25. This evolution reflects the recognition that effective protection against misleading electronic advertising requires addressing both the formal presentation and the substantive content of commercial messages, as well as the structural conditions that facilitate their dissemination.

The French Consumer Code (Article L121-1) qualifies as misleading any commercial practice containing false information or likely to mislead, even if formally correct.²⁴ Under the US Federal Trade Commission Act,²⁵ an advertisement is misleading where it involves misrepresentation or omission, is likely to mislead consumers acting reasonably, and concerns material information affecting purchasing decisions.²⁶ British law, through the Consumer Protection from Unfair Trading Regulations 2008, criminalises practices that deceive the average consumer through false information, undue influence, or concealment of essential facts.²⁷

From this definition, the basic elements of misleading advertising can be identified as follows:

First, the presence of an advertising message directed to the public to promote a good or service;

Second, providing false or misleading information, whether this information relates to the nature of the product, its characteristics, its price, or the guarantees provided with it;

Third, the possibility of advertising influencing the consumer's decision, meaning that advertising would push the consumer to make a purchase decision that he would not have made without that information.

Article L121-2 of the Consumer Code further stipulates that the deliberate concealment of essential information can constitute a misleading practice, even in the absence of explicit false information.²⁸

regulation of dark patterns: A systematic review of concepts, regulatory paradigms, and solutions from law and HCI perspectives. *Computer Law & Security Review*, 59, 106225. <<https://doi.org/10.1016/j.clsr.2025.106225>>.

22 European Union. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act). *Official Journal of the European Union*, L 277. <http://data.europa.eu/eli/reg/2022/2065/oj>.

23 European Union. Regulation (EU) 2022/2065 (Digital Services Act), Annex I.

24 France. (n.d.). Code de la Consommation (Légifrance). Retrieved on December 16, 2025. https://www.legifrance.gouv.fr/codes/texte_lc/LEGIT-EXT000006069565.

25 Federal Trade Commission. (1983). Policy Statement on Deception. https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf.

26 United States. (1983). Federal Trade Commission.

27 United Kingdom. (2008). The Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277). Reg. 5(2)(a)(b). <https://www.legislation.gov.uk/uksi/2008/1277>.

28 France. Code de la Consommation (Légifrance).

According to the US Federal Trade Commission (FTC),²⁹ an advertisement is considered misleading if three main elements are present:

First, incorrect representation or omission of information, such as providing incorrect data or withholding essential information;

Second, the capacity to mislead, meaning that advertising would mislead the average consumer who relies on this information;

Third, the materiality of the information in the purchasing decision, meaning that the misinformation must be related to a factor influencing the consumer's decision to purchase the product or service.

Therefore, misleading advertising in the US law is a clear violation of the consumer's right to correct information, constitutes illegal commercial behavior, and is combated at the federal and state levels through special legislation and effective regulatory bodies.

1.2. Elements of the crime of misleading electronic advertising

Every crime requires three pillars: the legal pillar, the material pillar, and the moral pillar. The crime of misleading advertising is a formal crime that occurs as soon as the conduct criminalized by law is committed.

1.2.1. Material element

The material element presupposes the existence of a commercial advertisement disseminated through electronic means,³⁰ containing misleading information likely to confuse consumers regarding the nature, quantity, or characteristics of the product or service.³¹ Neither Algerian nor French law requires a specific pro-

fessional status for the perpetrator; liability attaches to any natural or legal person who publishes a misleading advertisement.³²

The forms of misleading advertising are represented in the elements stipulated by the legislator in Article 28 of Law 04-02. Jurisprudence divides these into two categories: misleading related to the good or service itself (availability, components, origin, method and date of manufacture, quantity, price),³³ and misleading related to elements independent of it (terms and motives of sale, advertiser's obligations and identity).

1.2.2. Moral element

Most French court rulings have tended to assume bad faith in misleading advertisements. The French Court of Cassation, in its decision of 5/1/1994, considered that the misdemeanor of misleading advertising occurs even without bad faith; the advertiser is obligated to verify the advertisement before publishing it.³⁴ Judges are not obligated to search for bad faith; negligent error suffices for liability.³⁵

Failure to require intentionality or bad faith of the advertiser: Most French court rulings have tended to assume bad faith in misleading advertisements, including a notable ruling convicting a real estate agent who had made a false advertisement for an advertised property, relying on the trust confirmed by the property owner. The court did not consider bad faith a condition for liability for false advertising, stating that "a lie is necessarily voluntary, i.e., intentional". Thus, the court ruled that a false commercial message triggers liability regard-

29 Federal Trade Commission. (1983).

30 Shaoua, H. (2015). Consumer protection from the crime of misleading or false commercial advertising (in Arabic). *Journal of Legal Studies*, 23, 147-158. <https://asjp.cerist.dz/en/article/64272>.

31 Alaoua, H., Azzaouz, S. (2017). Criminal protection of the consumer from unfair practices (in Arabic). *Journal of Rights and Freedoms*, 5(1), 221-246. <<https://asjp.cerist.dz/en/article/32913>>.

32 Petty, R. D. (1996). The law of misleading advertising: An examination of the difference between common and civil law countries. *International Journal of Advertising*, 15(1), 33-47. <https://doi.org/10.1080/02650487.1996.11104632>.

33 Bouguendoura, A. H. (2018). Controls for criminalizing false advertising in the commercial advertising market (in Arabic). *Hawliyat Jamieat Qalama lil-Ulum al-Ijtimaiahwa al-Insaniyah*, 12(1), 165-182. <https://asjp.cerist.dz/en/article/56298>.

34 Shaoua (2015), 150.

35 Ibid., 152.

less of the advertiser's bad faith.³⁶

The French Court of Cassation definitively settled this matter in its decision of 5 January 1994, which held that the misdemeanor of misleading advertising occurs even without the advertiser having bad faith.³⁷ Negligence or lack of precaution cannot serve as an excuse to escape responsibility, as the advertiser is obligated to verify the advertisement and its authenticity and to be aware of everything it contains before publishing it.

In the face of this decisive ruling, judges are not obligated to search for the advertiser's bad faith; it is sufficient that the latter committed a negligent or careless error to be considered guilty. As for the Algerian legislator, based on Article 28 of Law 04-02,³⁸ it is clear that he did not refer to the requirement of bad faith or its exclusion, meaning that the advertiser's will is directed towards the material actions that represent lying and misleading.

In Brazilian legislation, Article 67 of the Consumer Defense Code establishes criminal liability for misleading advertising where the person "knows or should know" the advertisement is misleading, covering both intent (*dolo*) and negligence (*culpa*).³⁹ European Union laws focus on "the possibility of misleading the average consumer" regardless of the advertiser's intention.⁴⁰

1.2.3. Consumer misinformation assessment criteria

Consumer assessment is subject to two criteria. The *subjective criterion* considers the recipient's personal characteristics—intelligence, perception, experience. However, this criterion

is criticized for requiring research into hidden personal attributes.⁴¹ The *objective criterion* uses the standard of the ordinary person of average intelligence representing the general public, according to which misleading advertising occurs only if likely to mislead the average consumer.

2. WAYS TO LEGALLY PROTECT THE ELECTRONIC CONSUMER FROM MISLEADING ADVERTISEMENTS

Commercial advertising pushes consumers to contract, necessitating protection from advertisers displaying misleading electronic advertisements. False and misleading advertisements can be categorized into violations of the consumer's right to information and choice, and violations of the consumer's right to safety.⁴²

This protective framework is grounded in the United Nations Guidelines for Consumer Protection (UNGCP, 2015). Guideline 11(b) requires businesses to avoid "illegal, unethical, discriminatory or deceptive practices", while Guideline 63 urges Member States to ensure consumer protection in e-commerce is not less than in other forms of commerce.⁴³ The 2016 OECD Recommendation on Consumer Protection in E-commerce sets standards for fair business practices, clear online disclosures, and effective dispute resolution, requiring that consumer protection in e-commerce be not less effective than in offline commerce.⁴⁴

36 Ibid., 154.

37 Ibid., 156.

38 Law No. 04-02, Art. 28.

39 Santiago, M. R., Alves, D. S. (2019). A legal analysis of surrogate advertising and its accountability in Brazil in the consumer society paradigm. *Revista Jurídica*, 2(55), 106-132.

40 Golecki, M. J., Tereszkiwicz, P. (2019). Taking the prohibition of unfair commercial practices seriously. In Mathis, K., Tor, A. (Eds.). *New developments in competition law and economics* (pp. 91-106). Springer. https://doi.org/10.1007/978-3-030-11611-8_5.

41 Bliman, Y. (2009). False or misleading advertising (in Arabic). *Journal of Humanities*, 20(4), 289-313, 294. <https://asjp.cerist.dz/en/article/3553>.

42 Meenakumary, S. (2021). Legal regulation of false and misleading advertisements with special reference to Consumer Protection Act, 2019. *Commerce & Business Researcher*, 14(2), 53-61, 56. <https://doi.org/10.59640/cbr.v14i2.53-61>.

43 United Nations Conference on Trade and Development. (December 22, 2015). *United Nations Guidelines for Consumer Protection*. United Nations. https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf.

44 Organisation for Economic Co-operation and De-

2.1. Preventive protection for the electronic consumer from misleading advertisements

Preventive protection means legal and regulatory measures aimed at preventing the publication of advertisements containing incorrect or misleading data before reaching the consuming public. These measures include prior censorship, binding standards for advertising content, and special obligations on advertisers.

In Algeria, Law No. 18-05 and Law No. 09-03 prohibit the publication of advertisements containing false data or likely to mislead consumers.⁴⁵ The legislator obliges advertisers to accurately state essential data and grants competent authority to stop or withdraw violating advertisements.⁴⁶ Recent Algerian scholarship emphasises that these mechanisms seek to rebalance the contractual relationship in electronic commerce by deterring misleading advertising and providing enforceable rights and remedies, though legal measures must be complemented by sustained awareness-raising efforts.⁴⁷

Developed jurisdictions have established robust preventive mechanisms. In France, the DGCCRF may prevent misleading advertisements before publication.⁴⁸ The US Federal Trade Commission possesses the authority to issue cease and desist orders and impose fines.⁴⁹ Egypt's Consumer Protection Law No. 181 of 2018 gives the Consumer Protection Agency authority to stop advertisements containing misleading information,⁵⁰ with the possibility of referring vi-

olators to the Public Prosecution.⁵¹ Japan's Fair Trade Commission reviews advertisements and issues corrective orders under the Act against Unjustifiable Premiums and Misleading Representations.⁵²

At the European Union level, the Digital Services Act establishes a harmonised preventive framework based on due diligence obligations for intermediary service providers, requiring online platforms to actively assess and mitigate systemic risks, including the dissemination of misleading information.⁵³ The OECD Guidelines (2023) reinforce preventive standards by calling on enterprises to refrain from deceptive commercial practices and conduct risk-based due diligence.⁵⁴ The Council of Europe's 1989 European Convention on Transfrontier Television prohibits subliminal and surreptitious advertising and imposes safeguards for advertising addressed to children.⁵⁵

The preventive framework established by Directive 2000/31/EC operates through transparency mechanisms rather than prior authorisation. Article 6 requires that commercial communications transmitted by electronic means satisfy four cumulative conditions: they must be clearly identifiable as commercial communications; the natural or legal person on whose behalf the communication is made must be clearly identifiable; promotional offers must be clearly identifiable as such, with conditions easily accessible and presented clearly; and promotional competitions or games must likewise be clearly identifiable, with participation

velopment. (March 24, 2016). Recommendation of the Council on Consumer Protection in E-commerce (OECD/LEGAL/0422). OECD Publishing. <https://doi.org/10.1787/9789264255258-en>.

45 Law No. 09-03, Art. 17.

46 Law No. 18-05, Art. 30.

47 Medjahed, H. (2025). Consumer protection mechanisms from misleading electronic advertising in light of Algerian legislation. *The International Tax Journal*, 52(6), 3208-3215. <https://internationaltaxjournal.online/index.php/itj/article/view/315>.

48 France. Code de la Consommation, Art. L121-1.

49 United States. Federal Trade Commission Act, 15 U.S.C. § 45.

50 Egypt. (2018). Consumer Protection Law No. 181 of 2018 (in Arabic). WIPO Lex. <<https://www.wipo.int/>

[wipo.int/lex/legislation/details/19866](https://www.wipo.int/lex/legislation/details/19866)>.

51 Egypt. (2018). Consumer Protection Law No. 181 of 2018, Art. 15.

52 Japan. (1962). Act against Unjustifiable Premiums and Misleading Representations No. 134 of May 15, 1962 (as amended). <https://www.japaneselawtranslation.go.jp/en/laws/view/2303/en>.

53 European Union. Regulation (EU) 2022/2065 (Digital Services Act), Art. 25.

54 Organisation for Economic Co-operation and Development. (2023). Chap. VIII.

55 Council of Europe. (1998). Protocol amending the European Convention on Transfrontier Television (ETS No. 171). Strasbourg, October 1, 1998. <https://rm.coe.int/168007f2cd>.

conditions easily accessible. Article 7 complements these requirements by regulating unsolicited commercial communications, requiring Member States to ensure that service providers undertaking such communications consult and respect opt-out registers.

These provisions establish a preventive logic based on consumer empowerment through information rather than administrative censorship. However, the effectiveness of this approach has been questioned in the context of contemporary digital markets, where the proliferation of native advertising, influencer marketing, and algorithmic content curation has blurred the boundaries between commercial and non-commercial content. The Digital Services Act responds to these challenges by requiring online platforms to ensure that advertisements are clearly distinguishable from other content and that recipients can identify the advertiser and the parameters used for targeting. Article 26 specifically mandates that online platforms label advertisements and provide meaningful information about their commercial nature, thereby updating the transparency requirements of Directive 2000/31/EC for the platform economy.

Recent scholarship on advertising self-regulation emphasises that preventive consumer protection in digital markets also depends on how power and responsibility are distributed among advertisers, media, self-regulatory organisations, digital platforms, and consumers.⁵⁶ Influencer marketing and social media advertising create specific risks of misleading endorsements; emerging regulatory frameworks now require clear disclosure of paid partnerships.⁵⁷ Recent Indian scholarship confirms that technology-responsive legal frameworks are decisive factors in building consumer trust in digital markets,⁵⁸ while Chinese scholarship on

live streaming commerce illustrates governance gaps related to the allocation of responsibility among platforms, streamers, and merchants.⁵⁹ Similar regulatory fragmentation has been documented in South Africa.⁶⁰

Applying the Power-Responsibility Equilibrium framework, recent scholarship shows that the rise of global platforms and cross-border digital campaigns has disrupted traditional national self-regulatory systems, as those actors with the greatest structural power do not yet bear commensurate regulatory responsibilities.⁶¹ It therefore calls for embedding responsibility within corporate and platform cultures, aligning standards and funding models across jurisdictions, and strengthening proactive monitoring and cross-country cooperation to restore the balance of power and ensure effective protection against misleading online advertising.

2.2. Therapeutic protection for the electronic consumer from misleading advertisements

Remedial protection relates to legal mechanisms allowing consumers or competent authorities to address damage resulting from misleading advertising after it occurs. It encompasses legal, administrative, and judicial means aimed at addressing negative effects, restoring disturbed balance, and ensuring violations are not repeated.^{62,63}

- 56 Dickinson-Delaporte, S., Mortimer, K., Kerr, G., Waller, D. S., Kendrick, A. (2020). Power and responsibility: Advertising self-regulation and consumer protection in a digital world. *Journal of Consumer Affairs*, 54(2), 675-700. <https://doi.org/10.1111/joca.12295>.
- 57 Mukherjee. (2025).
- 58 Chawla, N., Kumar, B. (2022). E-commerce and consumer protection in India: The emerging trend. *Jour-*

- nal of Business Ethics*, 180, 581-604. <https://doi.org/10.1007/s10551-021-04884-3>.
- 59 Liu, H. (2025). Consumer rights protection law in the governance of false advertising: A case study of live streaming commerce. *Scientific Journal of Humanities and Social Sciences*, 7(8), 117-122. <https://doi.org/10.54691/g623mg68>.
- 60 Mupangavanhu, Y., Kerchhoff, D. (2023). Online deceptive advertising and consumer protection in South Africa: The law and its shortcomings? *De Jure Law Journal*, 56, 86-106. <https://doi.org/10.17159/2225-7160/2023/v56a7>.
- 61 Dickinson-Delaporte et al. (2020).
- 62 Abdullah, A. G. B. (2015). Commercial law and consumer protection (in Arabic). *Dar Al Nahda Al Arabiya*, 233.
- 63 Al-Sanhuri, A. (2011). The intermediary in explaining

2.2.1. Civil liability

Civil liability is based on compensating damage caused to consumers as a result of misleading advertising, including material and moral damages.⁶⁴ The French Consumer Code allows affected consumers to file lawsuits before civil courts to claim compensation.⁶⁵ The FTC has the authority to issue orders to stop advertising, impose fines, and oblige companies to compensate those affected; class actions can also be filed.⁶⁶ Egyptian consumer protection agencies can stop violating advertisements and refer those responsible to the Public Prosecution.⁶⁷ In Britain, the Advertising Standards Authority can impose withdrawal of advertisements and refer violators to courts.⁶⁸

Comparable challenges have been documented in developing e-commerce markets. In Bangladesh, fragmented oversight has resulted in weak enforcement against misleading advertisements; proposed reforms include a unified E-Commerce Consumer Protection Act.⁶⁹ In Indonesia, general consumer protection laws have proved insufficient to address online false advertising, confirming that effective redress depends on institutional capacity, consumer awareness, and smart regulatory mixes.⁷⁰

Article 30(6) of the Algerian Electronic Commerce Law explicitly prohibits misleading and ambiguous electronic advertising formulated in terms that deceive consumers and cause confusion, stating: "...Ensure that all conditions that must be met to benefit from the commercial offer are neither misleading nor ambiguous". Similarly, Article 28 of Law No. 04-02 on commercial practices prohibits misleading advertising, particularly when it includes statements, data, or presentations that could mislead consumers regarding the definition, quantity, availability, or characteristics of a product. Although the latter provision does not specifically address electronic advertising, its principles can be applied by analogy to digital commercial communications. This regulatory gap underscores the need for the Algerian legislator to address the matter more comprehensively, as traditional legal texts have become inadequate to counter sophisticated electronic advertising deception methods.⁷¹

The liability framework for misleading electronic advertising must be understood in light of the safe harbour provisions established by Directive 2000/31/EC. Articles 12-14 provide conditional exemptions from liability for intermediary service providers acting as mere conduits, caching services, or hosting providers, provided they meet specific conditions regarding knowledge and expeditious removal of illegal content. These provisions, preserved by the Digital Services Act, create a distinction between the liability of advertisers who create misleading content and the liability of platforms that host or transmit such content. The practical consequence is that effective remedial protection requires identifying the appropriate defendant:

the new civil law: Sources of obligation, Vol. 1 (in Arabic). Dar Nahdat Misr, 89. ISBN 9786144010037.

64 Abdullah. (2015), 235.

65 France. Code de la Consommation (Légifrance).

66 United States. Federal Trade Commission Act, 15 U.S.C. § 45.

67 Egypt. (2018). Consumer Protection Law No. 181 of 2018, Art. 9.

68 Advertising Standards Authority. (2021). The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code). <https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>.

69 Chowdhury, J. (2025). Strengthening e-commerce consumer protection in Bangladesh: Legal challenges, regulatory gaps, and reform strategies. *International Journal of Research and Innovation in Social Science*, 9(1), 2548-2567. <https://doi.org/10.47772/IJRISS.2025.9010206>.

70 Zulham, Z. (2023). A critical review of Indonesian online consumer protection: Online shopping, false advertising, and legal protection for Indonesian e-commerce customers. *Journal of Law and Sustainable Development*, 11(5), 1-15. <https://doi.org/10.55908/>

sdgs.v11i5.740.

71 Algeria. (1990). Executive Decree No. 90-367 of November 10, 1990 (in Arabic), Art. 13. Official Gazette of the People's Democratic Republic of Algeria (JORA), No. 50. <https://www.joradp.dz/FTP/jo-arabe/1990/A1990050.PDF>; Algeria. (2013). Executive Decree No. 13-378 of November 9, 2013 (in Arabic), Art. 56. Official Gazette of the People's Democratic Republic of Algeria (JORA), No. 58. <https://www.joradp.dz/FTP/jo-arabe/2013/A2013058.pdf>.

while advertisers bear direct liability for misleading commercial communications, platform liability depends on proof of actual knowledge and failure to act expeditiously. This distinction is particularly relevant in the Algerian context, where Law 18-05 does not explicitly address the allocation of liability between content creators and intermediary service providers.

2.2.2. Criminal liability

Criminal liability punishes advertisers who intentionally publish false or misleading advertisements through fines, imprisonment, or both. The French Penal Code stipulates criminal penalties of up to two years in prison and fines if intentional deception is proven.⁷² Under Algerian law, Article 40 of the Electronic Commerce Law provides: “Without prejudice to the rights of victims to compensation, anyone who violates the provisions of Articles 30, 31, 32, and 34 of this law shall be punished with a fine of 50,000 to 500,000 DZD”.⁷³ The fine is doubled for repetition within twelve months.⁷⁴ Both the advertiser and service provider publishing the misleading advertisement are held responsible for criminal and civil liability.

The basis for imposing financial penalties without deprivation of liberty lies in the economic nature of these crimes committed for illegal profit. However, the fine value remains small compared to potential profits, and does not achieve the required deterrence, especially since this crime affects consumer health and safety.

2.2.3. Removal of misleading advertising

Removal involves obligating the advertiser to withdraw the advertisement from publishing media and issue a corrective statement. Under Japanese law, the Consumer Protection Authori-

ty may issue immediate orders to stop misleading advertising and oblige advertisers to correct false information.⁷⁵

CONCLUSION

This study demonstrates that while e-commerce offers significant advantages, it poses new challenges for consumer protection against misleading advertising. Comparative analysis reveals a disparity between developed countries, which have established comprehensive legal frameworks with effective enforcement mechanisms, and developing countries still adapting their legislation to technological developments.

Key findings include: consumers' lack of digital awareness makes them more vulnerable to misleading practices; the cross-border nature of e-commerce makes enforcing local laws complex; and the rapid development of artificial intelligence and targeted advertising creates new forms of misleading advertising difficult to detect with traditional means. Recent legal scholarship on “dark patterns” shows that deceptive online choice architectures have become a central regulatory challenge, calling for a shift from ex post, harm-based enforcement towards proactive, design-embedded regulatory approaches.

Four recommendations emerge: first, developing national legislation with clear definitions of digital misleading advertising and proportionate sanctions; second, strengthening international cooperation through unified standards and information exchange mechanisms; third, deploying advanced monitoring technologies, including AI-assisted content analysis; fourth, intensifying consumer awareness programmes on digital rights and recognition of misleading advertising.

72 France. Code de la Consommation, Art. L132-2 (Légifrance).

73 Lakhal, I. E., Islam, S. (2023). Consumer protection from misleading electronic advertising under Law 18-05 (in Arabic). *Al-Hikma Journal for Media and Communication Studies*, 11(3), 54-74, 68. <https://asjp.cerist.dz/en/article/231633>.

74 Algeria. Law No. 18-05, Art. 48.

75 Japan. (1962). Act against Unjustifiable Premiums and Misleading Representations No. 134.

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