



E-MARKETPLACE LEGAL AND REGULATORY FRAMEWORK IN JORDAN: A GENERAL VIEW

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ABSTRACT

Jordan has rapid development of its virtual and real business environments; the country is improving the framework necessary to support the growth of its e-business activities. The increasing use of Internet and the potential of e-commerce give rise to important policy issues relating to national economic policy and rules of international trade. This article explores the general situation of e-marketplace in Jordan. Over the time, the market has been affected more by regulation than by any economic, social or technological change. The necessary regulations to sustain e-business activities in Jordan started almost with establishing the Electronic Transaction Law in 2001 which covered the electronic records, electronic signature, information letter, transferable electronic deed, electronic money transfer, authentication certificate, and penalties. One of the nations in the Arabian countries which has passed legislation (Electronic Transaction Act 85 of 2001) in terms of regulating e-business is Jordan, which was recently revised with the Electronic Transactions Law No.15 of the year 2015. Obviously, this set of laws requires further steps to deal with the electronic commerce that is governed by other laws and cover all e-business aspects. Likewise, more attention should be taken for legal, financial and market access issues that related to the e-marketplace and improve upon them.

Keywords: *E-Marketplace, E-Commerce, Jordan, Regulations, Property, Economy.*

1. INTRODUCTION

The electronic marketplace is an open system; which is often visited by numerous individuals, which includes manufacturers, programmers and general public. However, there are possibilities for these users to risk their security for instance malicious or unintended exhaustion of computer resources, anomalous actions, exploitation of information, source codes, etc. E-marketplace is a digital environment established to facilitate buying and selling between buyers and suppliers for the needs of procurement and sourcing. These could be horizontal, vertical, public and/or private environments. Lack of more developed techniques to regulate interaction is a critical issue for organizations that are keen towards investing in e-marketplace.

Marketing authentic products and providing good services might entice huge of economic impact, instantly, the challenges might develop into considerably more expensive and the requirement to manage the involvement of participants will drastically rise. These kinds of conflicts generally consume a considerable amount of time to be managed, just because the e-marketplace has not been originally developed adhering to an appropriate methodology and had faced lack of participant's involvement [1]. Consequently in its existing sort, the e-marketplace is not still fairly geared up to develop into an extensively suitable system for merchandising authentic goods and services online. Similarly, Pettey [2] and Smart, Cascio and Paffendorf [3] suggest that, there is a potential need to create institutional governance in terms of the participants' attitude in e-business before active business participation is possible.



The increasing use of Internet and the potential of e-commerce increase policy issues relating to both, national economic policy and multilateral rules of international trade. The liberalization commitments made at the World Trade Organization (WTO) may have a major impact on development of the e-commerce. Researchers, who explore different aspects of electronic marketplace law [4-6], are also concerned with this issue. Quite a number of studies have attempted to extend the accomplishment of nationwide legal frameworks [7], however, they have also depicted the issue that, these kinds of methods might probably backlash. Apart from increasing competition among e-businesses in various sectors, the national regulation might also force e-marketplace along the same way, wherein companies will ultimately vanish and there might be lack of optimism for the governments to precisely impact the administration of e-marketplace [7]. In this article we address the aforementioned problems by exploring the general situation of e-marketplace in Jordan. Jordanian e-business professionals have highlighted that, probably in several other nations in the region, e-business is still constrained to paying bills and charges, regardless of their superior facilities. In terms of e-commerce, there is still a lack of confidence [8]. However, E-marketplace has a lack of established legal framework (i.e. security, transparency, e-business property, and consumer protection for players in the online environment in terms of carrying out online business and for managing the internet service providers (ISPs).

2. E-MARKETPLACE REGULATIONS

There is no doubt that, globalization and the global information infrastructure have been transforming the world. Together, they have been changing the age-old desire to have a world without frontiers into a reality [9]. However, many countries are experiencing difficulties in conducting their e-business activities. They are lacking the regulations and infrastructure to promote their Internet-based activities and resources.

Policies are legalised moral values that are meant to regulate executions and to avoid imperfections [10]. Policies could possibly be employed for proposing or prohibiting behaviour ("command-and-control" policy), for gauging incentives ("incentive" policy), or to modify priorities ("priority modification" policy). There are many types of policies: legalised limitations launched by government agencies, contract commitments that

bind different individuals (for instance, insurance legislation has been enforced to regulate contracts among insurance agencies and general public) [10, 11]. In terms of understanding the legitimate structure of e-marketplace, it becomes essential to recognize the societal and technical attributes. The idea of relocating through a geographical manifestation is an historical concept that might be found in any country or early game [6]. Ellickson [12] has stated that, some studies have defined the term "law" as rules forced by weapons and apparatus. Generally, this explanation has disregarded the crucial grass roots of important societal legislation.

Generally, policy impacted manufacturing of goods, costing, needs, the advancement of distribution options, costs and margins of manufactures and eventually the structure of businesses. Consequently, the industries have been significantly impacted by policy as against economical, societal or technological changes. Assessment of consumer policies in terms of the market reveals that, objectives of policies have not been achieved and moreover policies have triggered sudden and unfavourable consequences [1].

3. E-MARKETPLACE PROPERTY

Property is one or more components of a person's estate. It is not established by nature or essential for the survival of human beings. It is essential for property to be acknowledged in an e-marketplace. Therefore the growth of e-marketplace offers a great possibility to try things out with the authorized associations, dealings, and commitments, which are enclosed in the classification of property. The continuation of property in these worlds might express our lack of ability to visualize any other means of constructing associations among people while there is a lack of resources.

The pursuits towards properties in the virtual worlds ooze into the real world, and occasionally, the investments amassed in a virtual world have importance in our physical world. Currently, cases have been filed over the possession of several virtual assets, and each day countless numbers of virtual property are shifted in the actual world for actual money. Nevertheless, pursuits towards property might be the preliminary field for the progression of the legislation of e-marketplace. This jurisdiction of law deals with a number of conflicts arising in future, it appears to be obvious



that, virtual property might be characterised as property for the purposes of real-world law.

4. LEGAL AND REGULATORY FRAMEWORKS

Globalization has been transforming the modern world into a very small global community through telecommunication resources and facilities such as optical cables, digital data transmission by satellites, interactive television, and computer networks. Even though there is an approach associated with e-commerce in Jordan, the lack of supportive rules and regulations continues to be an obstacle for e-commerce, predominantly laws relevant to electronic procedures and the electronic documentation system [8]. The problem of confidence about the current regulatory and legal frameworks needs to be kept up to date, or new regulations have to be drafted. Confidence and trust in e-commerce can be strengthened by ensuring that the framework of policies, regulations and organizational practices is consistent with the characteristics of global electronic trading environments and local cultural conditions [13].

Legislative aspects such as control of transactions, protection of privacy, safety, protection of intellectual property, e-commerce transaction tax, and federal policies, such as, promotion of IT production and utilization might allow or hinder e-commerce. Nevertheless, the majority of the existing legal and regulatory systems towards commercial activity had been formulated prior to the development of sophisticated e-communication systems. Furthermore, several attorneys and government agencies have suggested that, customers could be facing threats while performing e-commerce activities if they fail to employ public key and private key encryption systems. However, these forecasts have been proved to be erroneous, specifically following the advent of e-commerce in 2000. These days, quite a number of customers and internet users utilize straightforward technologies for authenticating their signatures and the reliability of their email and website communications. In addition, a lot of e-commerce organizations employ technologies such as, Secure Socket Layers (SSL) for ensuring secured transactions over the internet devoid of referring to any 3rd party [14].

Business policy structure, along with law and regulation has been extremely concentrated towards physical trade. Customers and organizations are

expecting governing bodies to guarantee that, the rules are equal to physical world as much as possible, and unquestionably essential to create new or modified regulations for assuring that, these are clear and foreseeable [15].

5. ECONOMY OF JORDAN

In 1970's the Gross domestic product (GDP) of Jordan has increased by three hundred fifty-one percentage, however it decreased thirty percentage in the 1980s, and again increased by thirty-six percentage in 1990s[16]. Jordan has been categorized as a growing market. Jordan has Free Trade Agreements (FTA) with the United States, Canada, Singapore, Malaysia, the European Union, Tunisia, Algeria, Libya, Turkey, and Syria [17]. More FTA's are planned with Iraq, the Palestinian Authority, the GCC, Lebanon, and Pakistan. Jordan is a member of the Greater Arab Free Trade Agreement, the Euro-Mediterranean free trade area, the Agadir Agreement, and also enjoys advanced status with the European Union.

World Bank has classified Jordan as a nation with upper-middle income [18]. The index of Economic Freedom has stated that, Jordan has the 3rd free-economy in the Middle East and North Africa, led by Bahrain and Qatar, and has been ranked as 38th free-economic nation across the globe [19]. The index of Economic Competitiveness of World Economic Forum has rated Jordan as 35th finest infrastructure on the globe. Jordan has obtained better rank as opposed to competitors, such as, Kuwait and Ireland [20]. Jordan has been ranked as the most globalized nation in the Middle East and North Africa region [21].

Since 2000 Jordan has been a member of World Trade Organization (WTO). According to Global Enabling Trade Report (2009) Jordan has been ranked fourth in the Arab World led by UAE, Bahrain, and Qatar [17]. The Free Trade Agreement (2001) with USA might step out responsibilities on almost all products and services by 2010. However, many countries including Jordan are experiencing difficulties in conducting their e-business activities. They are lacking the regulations and infrastructure to promote their Internet-based activities and resources. Their e-marketplaces must be reorganized to increase their national and international competitiveness. These countries require physical and regulatory reform by governments and the private sector to transform



their e-marketplace into an efficient, safe, transparent, and predictable environment for e-business. Jordan is one example. In spite of the rapid development of its virtual and real environments, the country still has problems and should improve the framework necessary to support the growth of its e-business activities. Problems directly and indirectly related to its legal, financial and market access are frequently detected and measured as demonstrated by a considerable quantity of reports [8, 22]. The necessary regulations to sustain e-business activities in Jordan started almost with establishing the Electronic Transaction Law (ETL) in 2001 which covered the transferable electronic deed, electronic records, information letter, electronic signature, electronic money transfer, authentication certificate, and penalties. Jordan was one of the leading countries in the Arab world for executing legal guidelines for managing e-business, with the Electronic Transaction Act 85 of 2001. Obviously, this set of laws requires further steps to cover all e-business activities [8]. However, the few rules that regulate the environment for e-business were tangled and complex. As a result, all legal issues referring to Internet transactions need complementary laws to be analysed and enacted. According to Al-Ibraheem and Tahat [22], this law will not be successful in responding to a number of problems pertaining to online contracts, such as offering confidence and openness to the users in online environment. In addition, this bureau has failed to take benefits of the possibility to contemplate few legislations in e-commerce from developed nations in terms of managing the organization of online shops and the pursuits of ISP, such as in United Kingdom or at the European level.

A lot of online transaction legislations all over the world were written during the 1990s and beginning of 2000, when IT professionals believed that e-commerce could be flourished only with Certification Authorities (CA) [14]. E-commerce regulations in the Middle East region are similar and we are questioning whether these regulations have served to increase e-commerce sales in Middle East. It is in addition attractive to notice that there are no cases that were brought to examine the implementation of those regulations in practice. Researchers consider that introducing legislation and regulations is essential for e-commerce to boost, although we call for examining the impact of these regulations on e-commerce particularly for the Middle East region. It will remain to be seen whether the application of such legislations would

increase e-commerce revenue in the Middle East region including Jordan.

6. DISCUSSION

Jordan has still to create a legal structure, which is favourable to the swift development of e-commerce. One e-commerce company informant said: It's like that we are playing a soccer game without any rules. We don't know which of our moves would be penalized, or whether our next goal would be counted. Abdul Malik Al-Jaber, -the chairman of the board of directors of the Middle East Payment Services Company- stated that the end of 2016 might witness that the volume of e-commerce in the Middle East and North Africa might reach \$16 billion as opposed to \$6 billion during 2012, even though Jordan's share remains very limited while the amount of e-commerce investment is increasing[8]. Similar to a number of other nations that have introduced laws pertaining to electronic commerce, Jordan has also launched the Electronic Transaction Law for managing e-commerce, which has been regarded as exclusive regulation that is applicable to trades conducted online. Courts ought to regulate problems of online business based on the Electronic Transaction Law. On the other hand, this does not essentially mean the exemption of applying of other regulations [22].

Regardless of the swift development Internet infrastructure, distinct development of Internet users, huge raise of bandwidth, and dissemination of laws and regulations with regards to the Internet in Jordan, even now there are limitations to adopt and usage the e-commerce tools by consumers which may incorporate with security, transparency, and consumer protection issues. The journalist Freihat [8] stated that e-commerce in Jordan has been adversely impacted by inadequate demand, wherein, e-commerce dealings are dealt with cash on delivery (COD) mode. According to Abdul-Majid Shamlawi -executive manager, Communications and Information Technology Companies Association in Jordan (INTAJ) - e-commerce is still in the initial stage in Jordan and the region, in which the lack of assurance and confidence in e-payment systems, apart from the suppression and finalization of a number of laws and regulations to govern e-commerce, detrimentally impact their growth, in comparison to the developed nations.

According to Al-Ibraheem and Tahat [22] Jordan has overlooked a wonderful prospect to offer



comprehensive laws to regulate e-commerce. The enforcement of Electronic Transactions Law is just the initial move that requires additional measures to enable the e-commerce in Jordan to prosper. Although Shamlawi has outlined that, the e-commerce approach that was authorized by the government a few years back has not been initialized too, and all individuals involved failed to extensively apply its factors thus far [8]. There is another very important and powerful issue that also has been impeding the development and growth of e-business activities in many developing countries. The cultural traits prevents consumers from conducting e-business transactions, and even entrepreneurs, firms and the government avoid conducting business by using the Internet as well [9].

One of the most important contributions in the electronic law is the digital signatures. Jordan introduced the Electronic Communications Act in 2000, which acknowledged the credibility of electronic signatures and confirmed their adequacy as proof in court. Moreover, the Electronic Signatures Regulations in UK have been constituted in 2002. Digital signatures improve the capability of the individuals to validate electronic communication. Advanced encryption and decryption technology has been employed for validating the identification of the other party while involving in e-transaction. Digital signature law, essential for resolving conflicts among parties in e-commerce, has been still in its beginning.

Lately, Jordan have started dealing with the Electronic Transactions Law No.15 of the year 2015 which governs the electronic transactions that take place through electronic means, has been implemented based on the royal willingness and the publication of the law, finally, in the official gazette. The law allows the ministries, official and public institutions, and municipalities to do their transactions using the electronic means provided that the electronic transaction requirements are available pursuant to this law, its regulations, and relevant instructions.

The ministries and institutions that do their transactions electronically have been asked to establish electronic records, use electronic signature, maintain the security of the electronic records and transactions, and protect the secrecy and safety of these records and transactions. Moreover, the ministries and institutions have to determine the commencement date on which they

are starting their transactions using electronic means. The law also stated that, taking the law of banks into consideration, each company should pay and transfer electronically all the money needed for the issuance of relevant license by the Central Bank of Jordan.

The law excluded the following: creating and amending a will, establishing an endowment and amending its provisions, transactions related to movable and immovable assets that require regulations for their registration including agency documents, titles of ownership, the establishment of in-kind rights, agencies and transactions related to personal status, notifications concerning cancellation and breach of contracts that are related to water and electricity services, medical and life insurance services. The law also excluded lawsuits, pleadings, judicial reporting notice, court decisions, and securities (stock, etc.).

The law imposes penalties on those who establish, publish, or offer an electronic certificate of authenticity for the purpose of scam (fraud) or any other illegal purposes. The penalty is imprisonment between three months and three years, and a fine between 1,000 and 100,000 Jordanian Dinars.

In this regard, the chairman of the parliamentary legal committee, Representative Mustafa Al-Amaawi said that the committee discussed the electronic record and the information memorandum issued by the initiator (sender) and the sender together with the relevant acknowledgement of receipt. In addition, he indicated that this law is one of the modern regulations of the kingdom, and that they will be implemented by all public (state-owned) institutions, aiming to determine the legal terminology that will be used in the field of electronic transactions, locally and internationally.

He revealed that the law finds a secured environment in the electronic transactions through applying the following: using electronic records that are signed and authenticated, the form of the electronic signature, the mechanism of using the electronic authenticity, determining the parties that are authorized to apply this authenticity and give legal argument about proving these signed and authenticated electronic records, as well as determining the procedures that are related to the electronic payment and relevant provisions that are considered as acceptable legal means. However, representative Al-Amaawi also stated that this law



governs and organizes only the electronic records and files while it has nothing to do with the e-commerce that is governed by other laws.

The e-commerce sector should encompass diverse supported tools to promote the consumers and companies to adopt e-commerce without any concern. Clarifying the privileges and duties for the consumers and companies is essential. In addition actions should be taken from the companies to carry activities and promote consumers to go online. These activities should be taken from both legal point of view and the commercial sectors themselves [22].

Ultimately, e-commerce services demand more consciousness and swiftness in terms of authorising and employing legislations and laws to regulate this kind of trade, whereby, the facilities associated with the distribution of the internet, particularly in the region which grows rapidly in using internet worldwide, which indicates that, the hindrance faced in the expansion of the internet are vanishing, particularly with the massive development of smart phones. In contrast, Bray and Konsynski [4] have emphasized on the importance of the endeavours made towards users of e-commerce to determine public order, such as electronic institutions. Furthermore, they have also mentioned that, these kinds of electronic institutions are up to now just competent of launching a set of standards of socially satisfactory behaviour.

7. CONCLUSION

Globalization has been breaking down legal, political, commercial, and economic barriers among almost all countries. Moreover, the e-marketplace must be modernized to increase domestic and international competitiveness. There is an immediate requirement for offering customer-favourable regulations for protecting online customers, due to the fact that the internet is an arena prone to scams and blunders. On the other hand, we need to promote business to invest heavily in e-marketplace by targeting what the consumers really need to buy and provide a climate of trust between all market stakeholders: consumers, retailers wholesaler, producers, agents, brokers, financing (payment), and delivery services, and the following computing systems (domain engineers).

Jordan has rapid development of its virtual and real business environments [23]; the country is improving the framework necessary to support the growth of its e-business activities. The developing

countries including Jordan require physical and regulatory reform by governments and the private sector to transform their e-marketplace into an efficient, safe, transparent, and stable environment for e-business. Attention should be taken for legal, financial and market access issues that related to the e-marketplace and improve upon them. In the same vein, research is needed in order to understand the factors that might affect customers to adopt and use e-commerce through e-marketplace. Moreover, what legislations that might promote costumers to adopt and use e-commerce tools (i.e. property related regulations, security and privacy related regulations, and transparency related regulations)

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