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# Access to information and rights of withdrawal in Internet contracts in Iran: The legal challenges

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## ABSTRACT

### Keywords:

Internet contract  
Information  
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This paper discusses two main issues relating to Internet contracts in Iran: the adequacy of information and the rights of consumer to withdraw from such contracts under Iranian law, using Iran's Electronic Commerce Law (ECL) as a main point of reference. The ECL provisions stipulate that sellers to online consumers must provide pre and post contractual information. Provisions on post contractual information, which is the main concern of this paper, are covered by Articles 34 and 35 of the ECL and relate to after-sales services, guarantees, conditions to terminate the contract and withdrawal rights. The right to withdrawal by the consumer is a strong consumer right provided by Iranian legislation, and basic elements in this in the field of e-commerce and online transactions are laid down in Articles 37 and 38 of the ECL. The ECL is an important piece of legislation addressing issues of Internet contracts in Iran and thus merits critical discussion in this paper.

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## 1. Introduction

Gleaning information about a product, service or contract before deciding to purchase online is important. This paper discusses the position of Iranian law on such information issues and the rights of withdrawal in e-contracts. Although online shopping is common in Iran, most Internet activities involve information seeking. The bigger picture of online shopping or electronic contracts in Iran is the same as elsewhere and, in general, in Internet or electronic contracts consumers have no bargaining power? As such, legal measures are needed in the cyber arena to protect e-consumers as the weaker party against exploitation in the preparation of contracts. E-commerce and distance selling are generally characterized by a buyer-seller business relationship where they do not meet face-to-face. There is a marked

disadvantage for the e-buyer or e-consumer making an on-line purchase as only a virtual representation of the product is available. As such, the most significant disadvantage for the e-consumer is the lack of familiarity with the product. In addition to being unable to check it out physically and in detail, the e-consumer also has no direct access to a salesperson for more information about the proper and safe way to install and use the product or even receive instant support.

In this paper, Iran's Electronic Commerce Law (ECL) is used as the main point of reference particularly the provisions of Articles 34 and 35 that relate to after-sales services, guarantees, conditions to terminate the contract and withdrawal rights. The fact that there are no effective statutory protections for e-consumers in Iranian law in the post contractual phase gives room to e-traders to manipulate and exploit consumers.

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## 2. E-commerce in Iran: general background

Recent research conducted in 2013 shows that 43% of online activities in Iran relate to online shopping and 67% was on seeking information.<sup>1</sup> The government of Iran addressed policy issues on ICT and IT development within its five-year Economic, Social and Cultural Development (ESCD) Plans. In the first and second ESCD Plans, ICT development was mainly conducted by the government which expanded and improved postal and telecom IT infrastructure in rural areas and cities and long distance and international services. In 2000, there was a fundamental shift. State telecommunication companies decided to transfer some of their functions such as maintenance and operations, designing, engineering, installation and operation, testing and delivery of equipment and networks to private and cooperative sectors.<sup>2</sup> The Fourth ESCD Plan (2005–2009) stated that the government planned to expand communications and information technology and to bring into effect a knowledge-based economy or K-economy to achieve regional development and to facilitate high-standard communications and to provide new opportunities for the provision of services for individual families and companies.<sup>3</sup> When easy access to the Internet with high speed is difficult and the prices are not fair many small and medium-sized enterprises (SMEs) which constitute a large percent of Iran's industrial capacity, cannot conduct business online.<sup>4</sup> Iran is a delayed-passenger of e-commerce, ranking seven amongst the eight countries of the Middle East and 59 globally for e-commerce preparation and application.<sup>5</sup> Iran's minister of Communication and Information Technology (CIT) announced that according to the 5th ESCD Plan (2010–2015), Iran should conduct 20% of internal trade and 30% of its external trade electronically.<sup>6</sup>

The Ministry of Commerce has several responsibilities in managing facilities for the growth of e-commerce in Iran. They include (i) completion of the feasibility study of Iran's comprehensive e-commerce plan and compiling the long-term plan for the national development of e-commerce within the ESCD Plans, (ii) establishing a standard certification authority, (iii) conducting short-term, expertise and general training programs and holding internal and international seminars and conferences on e-commerce, (iv) strengthening the scientific capabilities within Iran as well as absorbing and

stimulating the internal and foreign private investment within the framework of e-commerce legislation.

## 3. Contract information in online transactions and consumer rights in Iran

In accordance with Iran's consumer protection policy, the ECL 2004 and Consumer Rights Protection Act (CRPA) 2009 protect the rights of e-consumers. The provisions of Articles 33 (d) & (g), 34 and 35 of the ECL relate to information on after-sales services, guarantees and conditions to terminate the contract in online transactions. Article 3 (1), (2) and (3(b)) of the Iran CRPA requires the e-seller to provide necessary pre- and post-contractual information about the product.

Article 33 (a), (d) and (f) of the ECL states that “Sellers of goods and service providers shall, in good time and before entering into contract, provide the consumer with information affecting his decision-making for the purpose of purchase or acceptance of the terms”. The minimum information required based on the relevant parts of the Article include:

- a) Technical specifications and functional characteristics of goods or services;
- d) All the expenses that will be charged to the customer for the purchase of goods (including the price of goods or services, tax, freight cost, calling charges);
- f) Terms and process of contract including payment terms and arrangements, delivery or implementation, cancellation, return, after-sales services.

Sub-articles (a), (d) and (f) apply to the post stage or the contract completion phase. Sub-article (a) refers to the technical specification of the goods where it is neither possible nor practical for consumers to be familiar with the technical and functional characteristics of the goods. Consumers do not need to be generally knowledgeable about the multiplicity of consumer products but require relevant information in the post stages of the process of acquiring a particular good or service. A consumer need not be generally knowledgeable about 18-speed mountain bikes, digital cameras, or gas grills, if he does not bike, take pictures, or cook out. Only when a product shows up on their screen do consumers seek specific and timely information to assist them in making sound consumption choices.<sup>7</sup> Consumers may need only assurances of product quality and safety. Brand names, reputation, warranties, and seals of approval are all assurances that substitute for detailed technical knowledge.<sup>8</sup>

The main characteristics of the goods/services under the ECL refer to “technical specifications and functional characteristics” which are not about the nature of the contract. Therefore ambiguity of this part of the Article may provide

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