



SAFEGUARDING CONSUMERS: COMBATING DECEPTION IN E-COMMERCE

DR. ABDUL RAHMAN BIN SAFAR BIN AWAD AL-SAHLI

Assistant Professor in the Systems Department, College of Sharia and Regulations, University of Tabuk,
Kingdom of Saudi Arabia

Abstract

This research explores the significance of protecting consumers from electronic commercial deception, focusing on the Saudi regulatory perspective. It sheds light on this crime's societal dangers and emphasises prevention's importance. The researcher outlines the risks and characteristics of this crime, highlights Saudi regulations aimed at curbing it, and examines the types and methods of commercial fraud. The study also emphasises the preventive and remedial measures to combat fraud and presents the associated risks and precautionary strategies. The researcher approaches the topic through preliminary definitions, followed by two sections: the first addresses fraud in electronic commercial transactions and the legal and regulatory stance in four demands. In contrast, the second section explores the impact of fraud on commercial electronic contracts in four demands. The conclusion summarises the key findings and recommendations, seeking guidance from the Almighty.

Keywords: recommendations, strategies, associated, characteristics, emphasizes

1. INTRODUCTION

In the name of Allah, the Most Gracious, the Most Merciful. Praise be to Allah, the Lord of all worlds, and peace and blessings be upon the noblest of prophets and messengers, our Prophet Muhammad; peace be upon him, as well as upon his family, companions, and all those who follow them in righteousness until the Day of Judgment.

Crime in societies evolves and diversifies according to the environments in which criminals operate and technological advances [1]. These crimes have transcended international borders through the modern advanced means that we experience in this era. Consequently, legislative bodies in each country have been compelled to enforce criminal policies that correspond to combating and reducing the spread of such crimes [2]. The Saudi regulatory authorities have shown a clear interest in combating transcontinental crimes by implementing regulations to combat commercial fraud in general and electronic commercial fraud in particular. This is evident through the issuance of various laws to protect public and private finances, which, in turn, have contributed to organizing the legal relationships and connections arising from this trade. These laws clarify the obligations between the contracting parties, the rights arising from these contracts, the penalties prescribed for violating these laws, and the methods of addressing such violations. Among these laws are those related to combating fraud, such as the Anti-Commercial Fraud Law and the E-commerce Law.

This research addresses the provisions of these laws pertaining to criminal policies regulating electronic commercial relationships and combating commercial fraud. It explores the nature of these crimes, the methods employed in fraud, the reasons behind their proliferation, the challenges faced by regulatory and investigative authorities in proving them, and the penalties imposed for such crimes. Therefore, the research is titled "Safeguarding Consumers: Combating Deception in E-commerce."



2. RESEARCH SIGNIFICANCE

The importance of research is shown by the following:

- 1- The position of the Saudi regulator on consumer protection from electronic commercial fraud according to the regulations it has set, through the electronic transactions system and the electronic commerce system.
- 2- Shedding light on the seriousness of the crime of commercial fraud and its negative impact on the lack of trust between dealers in the field of e-commerce.
- 3- Work to protect the consumer from falling into the dangers of this crime.

3. RESEARCH OBJECTIVES

- 1- Shedding light on this serious crime in terms of its nature and characteristics.
- 2- Shedding light on the Saudi regulations that were put in place to curb this crime.
- 3- Knowing the types and methods of electronic commercial fraud crime.
- 4- Highlighting the preventive and curative role enacted by the Saudi regimes to combat this crime.

4. RESEARCH METHODOLOGY

In this research, I will, God willing, adopt an analytical and applied methodology to highlight the policy of combating electronic commercial fraud in the Saudi system. This will be achieved through the following:

Firstly, Analytical Methodology: It involves citing and analyzing the texts of the Saudi system.

Secondly, Applied Methodology: Presenting judicial applications from relevant authorities involved in implementing regulations in matters related to the research topic, whenever possible.

5. RESEARCH STRUCTURE

Preliminary Section: Introducing the terminology related to the research topic, consisting of three Demands:

First Demand: Defining the concept of consumer protection.

Second Demand: Understanding the concept of commercial fraud.

Third Demand: Defining electronic commerce.

First Section: Fraud in Electronic Commercial Transactions and the Legal and Regulatory Perspective, consisting of four Demands:

First Demand: Methods of fraud in electronic commerce.

Second Demand: Causes of the proliferation of contracts and electronic commerce fraud.

Third Demand: Consumer protection methods in electronic commerce.

Fourth Demand: Legal and regulatory stance on commercial fraud.

Second Section: The Impact of Fraud in Electronic Commercial Contracts, consisting of four Demands:

First Demand: The scope of legal protection against fraud in electronic commercial contracts.

Second Demand: The role of regulatory and investigative authorities in combating electronic commercial fraud.

Third Demand: The role of judicial entities in applying appropriate penalties for electronic commercial fraud crimes.

Fourth Demand: The role of enforcement agencies in implementing legal provisions related to electronic commercial fraud crimes.

5.1. Preliminary Section: definition of research terms

Electronic commerce has become the pinnacle of development in trade exchange between individuals, companies and various parties. The buyer used to meet with the seller in what is called the contract council. Then the idea developed, and the contract council became more extensive with the development of means of communication. The volume of trade exchange between countries increased after the Second



World War and expanded. Its area exceeded geographical borders in the era of globalization, and with the rapid development and widespread use of modern technologies, a new form of trade emerged, which is called electronic commerce. Regulations and laws focused on electronic commerce, and before that, Islamic law, in terms of commercial fraud that pertains to this trade.

5.1.1. The first Demand: what is meant by consumer protection

The word protection is associated with ensuring the rights that the consumer has been suffering from continuously [3].

Protecting the consumer is intended to provide him with safety because he is the weak party in the contract. As for defining his concept accurately, it is a matter of difference for the opinions of legal scholars, and among their definitions of the consumer is that he is: the person who purchases the commodity or service intending to satisfy a need or desire for him or his family members [4].

Accordingly, the consumer is the one who buys goods or services for consumption, use and fulfilment of his needs, without intending to produce them or resell them and use them in commercial transactions. The definition of the consumer states that he is: every person who obtains a good or service with the intention of satisfying his personal or family needs and not for a professional or commercial purpose [5]. And the Saudi regulator defined it as every person of a natural or legal capacity who obtains a good or service with or without charge for his personal needs or the needs of others [6]. The Saudi regulator did not differentiate between the individual consumer or the legal person (eg, companies and institutions), as evidenced by the definition of the consumer in the system.

5.1.2. The second Demand: is the concept of commercial fraud.

What is meant by commercial fraud is every action aimed at changing or modifying the nature of the commodity for sale so that the true nature of the commodity or service to be obtained is concealed by changing it materially and showing it without its true appearance. Misleading the consumer is a way to show the lousy commodity as a good one. And according to Islamic jurists, several definitions were received in which we find a difference in terms, but they are close in meanings, including the sale includes a description that if the buyer knew about it, he would refrain from buying it [7].

The fraud falls on what was necessitating a decrease in the price of the commodity. The lesson here is the knowledge of the buyer, so if he knew at the time of purchase, he would deny the fraud. His lack of knowledge entails the intended fraud, which means concealing the defect, deception and betrayal in selling what is not what it really is [8]. As it came in its definition: the seller showing false perfection in his sale or concealing his defect [9]. The essence of fraud here lies in the seller concealing the true nature of the goods and presenting them in a way that contradicts reality, leading the buyer to perceive the goods based on their external appearance. Fraud is defined as deception originating from the seller [10]. Fraud in all its forms is the use of deceptive means to achieve an illegitimate objective by one party, causing the other party to accept the service or goods due to these means that present the thing differently than its reality.

5.1.3. Third Demand: Definition of Electronic Commerce:

Electronic commerce is a relatively modern term that emerged with the advent of the Internet. However, international legislation and juristic opinions have had a significant impact on elucidating the nature of electronic commerce. Therefore, we will discuss the legislative and juristic specifications of electronic commerce as follows:

First, the Legislative Definition of Electronic Commerce:

The concept of electronic commerce will be defined based on international organizations and then its definition in national legislation as follows:

1. The concept of electronic commerce in international legislation:

The World Trade Organization defines electronic commerce as "the production, distribution, marketing, and sale of products through electronic means [11]. Additionally, European Directive 7/97 concerning the protection of consumers in distance contracts and Directive 31/2000 on electronic

commerce define the term "electronic commerce." However, both directives define remote communication technology as "any means that can be used to conclude a contract between the supplier and the consumer without the simultaneous physical presence of the parties"[12].

It becomes apparent that the model law does not define electronic commerce specifically but defines the means used to conclude electronic contracts. Some precisely define electronic commerce as [13] "engaging in commercial activities through the Internet or other electronic means" [14]. This is also the definition adopted by the World Trade Organization, which defines electronic commerce as "the production, distribution, marketing, and sale of products through electronic means" [15].

Others define it as "the totality of commercial services that groups (companies, institutions, individuals) engage in and rely on electronic processing of data (texts, sounds, images), including the effects of electronic exchange of commercial information on institutions, commercial negotiations, contracts, taxes, and financial settlements" [16].

Second: The concept of electronic commerce in national systems:

The law of the Emirate of Dubai defines e-commerce by saying: "commercial transactions that take place through electronic correspondence" [17]. As for the Saudi system, the Electronic Transactions Law for the year 1428 AH was devoid of the definition of electronic commerce, but on the other hand, electronic transactions were defined in general in Article (1 / 10) as any exchange, correspondence, contract, or any procedure concluded or executed in a manner in whole or in part by electronic means [18].

The Saudi regulator defined it in Article 1 of the Iron Electronic Commerce Law, which was issued as: "An activity of an economic nature undertaken by the service provider and the consumer - in whole or in part - by electronic means in order to sell products, provide services, advertise them, or exchange their data" [19]. Although this text was more restrictive and specific to the concept of electronic commerce, it was also expanded to include, in addition to commercial operations, economical operations and activities such as the work of banks and economic institutions [20].

5.2. First Topic: Fraud in Electronic Commercial Transactions and the Legal and Regulatory Perspective.

In this topic, we discuss the means of fraud, the reasons for its spread, consumer protection, and the legal and regulatory stance towards it. The Internet and technological advancements have promoted various methods and forms of fraud.

5.2.1. First Demand: Means of Fraud in Electronic Commerce.

When we look at the means of fraud used in the past, we find that they either involved concealing defects, deception, cheating, or similar practices. As Ibn Al-Arabi Al-Maliki said, "Fraud can occur in defects, pricing, lies, or cheating" [21].

With the presence of technology and electronic means, in recent times, fraud has occurred through transactions conducted via electronic means. Consequently, these means have become the pinnacle of development in exchanges between individuals and companies. The scope of contracts has expanded with the advancement of communication methods. Previously, bartering was the method of conducting exchanges, where the seller would deliver the goods to the buyer in exchange for receiving other goods as a counterpart. This was before the emergence of money. Then, the circulation of metal currencies developed, followed by the idea of electronic currency. Eventually, buying and selling became electronic, using modern technological means through the Internet. This involves delivering flawed products or services. One of these fraudulent methods is pyramid schemes, one of the prominent forms of electronic commercial fraud. It refers to fraudulent marketing and investment programs where participants are rewarded for convincing others to join these marketing programs. When one person or a group of people collect money from a group of individuals (one-time subscription), they ask these individuals to collect money from their friends by persuading them to participate in such programs. This is how the first circle of fraud begins.



Another means of fraud is when contract parties resort to making a visual contract when they want to conceal the truth. They present a distorted image of what they have contracted for, for any reason, whether it be to evade taxes or fees.

Electronic fraud has become more widespread and common in the modern age due to significant advancements in information technology and the extensive use of the internet. This includes fraud that occurs in online auctions, where goods are described over the internet, and due to the difficulty of inspecting and ensuring their flawlessness, buyers have no choice but to trust the seller's presentation. The internet can also be used in fraud related to electronic fund transfers when stolen. The fraudster gains access to certain means associated with information protection, such as passwords, account information, website login, and sending electronic messages to disable and halt operations, thus accessing confidential data. The advancement in the use of electronic commerce can lead to the misuse of the Internet in electronic fund transfers [22]. Therefore, any contract involving deception and deceit in any commercial transaction, whether through the Internet or directly, is considered a means of commercial fraud.

One of the means of fraud in this era is imitation and simulation between the original and the imitation. This type often occurs in the imitation of trademarks, and it does not necessarily require an exact match between the two marks. It is sufficient for there to be a resemblance between them, leading to confusion for the consumer, and causing ambiguity between the products [23].

Therefore, the seller must inform the buyer about the condition of the goods, as the buyer is keen to know the basic characteristics of the goods, whether they have any defects, their quality, and whether they are suitable for the intended purpose for which they are being purchased. The buyer also wants to assess any potential harm that may arise in the future [24].

Fraud also occurs in the misrepresentation of product data, such as changing the production date or country of origin or misrepresenting the composition of the goods, such as labelling clothing as "100% cotton" when they are a high percentage of synthetic material or other substances.

5.2.2. *The second Demand: Reasons for the spread of fraud in electronic commerce.*

For commercial fraud to occur, human intervention must facilitate it. However, fraud can also occur due to factors beyond human control, as explained below:

Firstly, fraud committed by humans:

Fraud committed by humans is considered fraud in its truest sense. It can involve addition, extraction, or fabrication [25]. It can also occur by hiding merchandise under a deceptive appearance that deceives the buyer. It can be achieved by mixing or adding a different substance to the goods or even the same nature of the goods but of lower quality, with the intention to confuse the buyer or to conceal the poor quality of the goods and present them as better than they actually are [26]. Therefore, commercial fraud takes place through various methods, including the following:

A - Fraud by addition or confusion:

This method is one of the most common and widespread methods from a practical point of view, and fraud is achieved in it by mixing it with another substance of the exact nature, of lower quality, in the belief that the mixture resulting from it carries a full degree of purity, or with the intention of concealing the poor quality of the goods.

And showing it in a way that is the opposite of what it actually is [27]. This type is often published in the field of food commodities and medicines, as each commodity has standard specifications that must be available in the commodity in order to achieve the purpose for which it was manufactured, in accordance with the determinants contained in the legislation and regulations for determining the standard specifications of commodities. If the producer adds a substance and manipulates the specific specifications so that Benefiting from the price difference between the two bad commodities and the new one, or any form of manipulation of commodities and specifications, it is considered fraud and is subject to accountability and punishment [28]. Examples of adulteration by addition: adulteration of



low-value oils into high-value oils, such as adding cottonseed oil to sesame oil and offering it for sale as sesame oil or adding water to milk [29].

B - Fraud by fraud or deception:

Fraud in this method takes place by removing part of the elements that are included in the composition of the commodity, as this results in a decrease in the quality of the commodity, in addition to the emergence of a new product that is kept with the same name and benefited from at the same price, [30] by selling it again individually or in addition to another commodity, and an example of that is removing the fat from the milk and then selling it as full-fat, and the truth is otherwise [31].

C - cheating by substitution method:

This type of fraud is the most dangerous type of fraud, as the producer manipulates the basic elements that make up the commodity and replaces them with other elements of less value and quality, all to benefit from the price difference. One of the parts is replaced by another substance [32].

Fraud is achieved in this way when the material does not include the elements that make up the real product or replaces it with another similar material that differs from the specifications of the original material.

The spread of e-commerce depends largely on the use of the Internet, and one of the most important reasons for fraud in commerce, in general, is related to personal matters such as weak religious faith, ignorance of the sanctity of fraud, the promise of devotion to God Almighty, and negligence in applying deterrent regulations to anyone who is proven to have committed the crime of fraud. The reasons for its spread in electronic commerce in particular, for example, a large number of companies and the expansion of the number of commercial establishments, in addition to the material view of the profitability of some merchants without any regard for the ethics of the profession, and the weakness of administrative control is also one of the most important reasons for the spread of fraud, which led to the spread of electronic fraud. The Saudi market also attracted the attention of investors from different countries of the world, which resulted in the promotion of goods through all the Kingdom's land, sea and air outlets, and the diversity of goods and products with the multiplicity of individual and group needs, and the desire of every person to buy everything that is new, which made the industrialized countries increase their production and increase their exports. A result of this frantic race resulted in a variety of forms and images of cheating until those industrialized countries became so skilled in luring the consumer and attracting sellers and investors in their products and commodities that they were hidden and corrupted by advertising means and propaganda inducements. They had popular industries with their brokers and various channels until a trade became limited to marketing operations, leading people to cheat [33].

Some merchants may resort to lying in the field of marketing and advertising by describing the goods and praising them for what they are not, with the aim of urging the consumer to acquire them, which is what the Islamic Sharia prohibits with regard to lying in the field of advertising and marketing of commodities in its simple form, while its big picture is represented in what merchants resort to, from trying to confirm what they say and promote with false faith, which is also forbidden by Islamic law because of its harmful effects [34].

We see that the world is heading towards expansion in the field of electronic commerce, but one of the negative demands of this expansion is the lack of accurate statistics on the use of electronic commerce.

5.2.3. The third Demand: methods of consumer protection in electronic commerce.

What is meant by means of protection is the contribution of the various competent authorities in achieving consumer protection, whether a natural person or a legal person, as stipulated by the regulator, so that the regulatory authority issues decisions aimed at protecting the consumer and achieving the results and requirements of society, and there are controls that apply on the basis of consumer protection. Generally, regulations related to quality, specifications and standards have been issued to protect consumer safety [35]. Consumer protection is based on the statutory texts that were enacted to



deter all merchants who tempt themselves to cheat or deceive themselves by imposing penalties and sanctions that prevent them from any act or act in violation.

The Consumer Protection Association has an effective role in applying the statutory rules, caring for interests and preserving the rights that guarantee consumer protection, as it is the body entrusted with receiving consumer complaints related to fraud and fraud in goods and manipulation of goods or services, misleading through advertisements in newspapers and others, and reporting to the competent authorities. And follow up and support the efforts of government agencies concerned with consumer protection (such as the Agency of the Ministry of Commerce for Consumer Protection and its affiliated departments - secretariats) [36].

The consumer is considered the most important party to the commercial contractual bond, as he is the weak party, and his trust is considered the basis of this transaction, so he needs protection so that he does not lose security when entering a commercial electronic transaction. Any advertisement or advertisement shall not involve misleading or confusion about the advertised product or service and the product or service of the competing entity [37]. One of the most important obligations is to protect the customer's data from access, such as his civil registry, bank data, or numbers, and not to use it for the purpose of marketing it so that the data is disposed of after fulfilling the obligations, as well as informing the Ministry of Commerce of any breach of consumer data.

The Saudi regulator has established these regulations and decisions to take the necessary measures to combat commercial fraud, protect consumer rights, and implement effective methods and means to monitor and supervise the markets [38].

5.2.4. The fourth requirement: is the legal and legal position on commercial fraud.

The Islamic Sharia urged adherence to the Demand of honesty in all transactions, the most important of which is the commercial transactions of both parties to the contractual relationship. The Almighty said: (O you who believe, fear God and be with the truthful) Surat Al-Tawbah verse No. (119).

God Almighty has made it obligatory for every Muslim to be truthful, whatever the nature of his work, and God, the Blessed and Exalted, promised through the words of His Prophet Muhammad, may God's prayers and peace be upon him, the honest merchant, the good reward in this world and the hereafter. (The honest merchant is with the prophets, the truthful ones, and the martyrs [39].

And in the trace what came on the authority of Omar Ibn Al-Khattab, may God be pleased with him, that he said: (I love you to us as long as we do not see you with the best name, so if we see you, the most beloved to us is the best of you in morals, and if we test you, then the most beloved to us is the most truthful in speech and the greatest of you in honesty) [43].

In these legal texts and others that are not mentioned, we find that God Almighty promised the honest trader a great reward on the Day of Resurrection, in addition to what he finds in this world of blessing in his money and good earnings.

On the other hand, we find that the wise Lawgiver forbade cheating and its use in marketing and advertising, whether directly or through the Internet or various means of communication and threatened them with woe, as the Almighty said: Woe to the extinguishers (1) who, when they crowd the people in full, (2) and when they dictate M or Their weight is lost (3). Surah Al Mutaffifin, verses (1-3).

And this is a severe threat to those who underestimate or decrease the measure and weight, and the Prophet of God Shuaib, peace be upon him, warned his people against people underestimating their things and being light in measure and weight, as stated in the Book of God, Blessed and Exalted be He.

And the Prophet, may God's prayers and peace be upon him, warned against cheating and warned everyone who deceives people. Abu Hurairah, may God be pleased with him, narrated that the Messenger of God, may God's prayers and peace be upon him, passed a sabre of food and inserted his hand into it, so his fingers got wet, so he said: (What is this, O owner of the food? O Messenger of God, he said: (Why did you not put it on top of the food so that people could see it? Whoever cheats is not from me) and in a narration: (Whoever cheats us is not from us) [44].



All of this indicates that commercial transactions require honesty, that cheating is not one of the teachings of the true religion, and that cheating and deceit are among the ugly things that bring bickering and conflict between people and the corruption of society.

The Saudi regulator has taken care of combating fraud of any kind, and electronic fraud falls within the scope of criminalization stipulated in the Anti-Commercial Fraud Law. This system is each of [45]:

1- Deceived - or attempted to deceive in any way in any of the following matters:

a- The product's nature, type, elements, or essential characteristics.

b- The source of the product.

c- The amount of the product, whether it is in terms of weight, measure, size, number, and the like.

2- Cheating- or attempting to defraud the product.

3- He sold or offered an adulterated product.

4- Possession of adulterated product with intent to trade.

5- Importing, manufacturing, printing, possessing, selling or displaying containers, covers or publications used in fraud.

6- Importing an adulterated product.

And in implementation of the provisions of this system, the Ministry of Commerce has established several committees to adjudicate cases of commercial fraud in a number of regions of the Kingdom, as follows:

1- The Committee for Adjudication of Commercial Fraud Cases in the Riyadh Region, formed pursuant to Resolution No. 677/4/2/33, dated 3/16/1405 AH.

2- The Committee for Adjudication of Commercial Fraud Cases in Makkah Al-Mukarramah Region, formed by Resolution No. 678/4/2/33, dated 3/16/1405 AH.

3- The Committee for Adjudication of Commercial Fraud Cases in the Eastern Region, formed by Resolution No. 679/4/2/33, dated 3/16/1405 AH.

4- The Committee for Adjudication of Commercial Fraud Cases in the Qassim Region, formed by Resolution No. 681/4/2/33, dated 3/16/1405 AH.

5- The Committee for Adjudication of Commercial Fraud Cases in the Asir Region, formed pursuant to Resolution No. 680/4/2/33, dated 3/16/1405 AH.

6- The Committee for Adjudication of Commercial Fraud Cases in Al-Madinah Al-Munawwarah Region, formed according to Resolution No. 3193/10/13/33, dated 9/20/1417.

These committees are responsible for issuing administrative decisions regarding the violations that are referred to them after they are caught by members of the Commercial Fraud Control Department in the branches of the Ministry of Commerce in the cities and governorates of the Kingdom, and what is also seized by other agencies such as secretariats. On the authority of Anas, may God be pleased with him, he said: The Messenger of God, may God's prayers and peace be upon him, said: "The truthful merchant will be under the shadow of the Throne on the Day of Resurrection" [40].

And it was narrated that the Messenger of God, may God's prayers and peace be upon him, went out one day to the prayer place and saw people selling, so he said: (O people of merchants), so they responded to the Messenger of God, may God's prayers and peace be upon him, and raised their necks and looked at him, so he said: (The merchants will be resurrected on the Day of Resurrection, except for those who fear, are righteous and honest) [41]. And on the authority of Muadh bin Jabal, may God be pleased with him, that the Messenger of God, may God's prayers and peace be upon him, said: (The best earning is the earning of merchants who, when they speak, do not lie, and if they are entrusted, they do not betray, and if they make a promise, they do not break them, and when they buy they are not disparaged, and when they sell they are not praised, even if it is upon them. They did not procrastinate, and if they had it, they did not make it difficult) [42].

Second Section: The Impact of Cheating on E-commerce Contracts and Four Demands:

First Demand: The Scope of Legal Protection against Cheating in E-commerce Contracts.



Through this demand, the stages of the development of the system for combating commercial fraud will be identified, through the Saudi Electronic Transactions System and the Information Crime Combat System, in addition to the Saudi E-commerce System as follows:

First: The Saudi Electronic Transactions System:

The Saudi regulator has been keen on regulating important aspects of electronic transactions, whether related to the application of provisions related to e-commerce, defining the contracting process, or defining the terms of the electronic record [43]. Thus, the Saudi Electronic Transactions System was established to regulate these matters in 31 articles and its executive regulations in 1428 AH, which came in 24 articles. It established a strong foundation for what is known as e-commerce, based on the expansion and strong prevalence of e-commerce. This system is in line with Saudi Arabia's accession to the World Trade Organization, and its aim is to recognize electronic means in commercial or civil procedures through electronic methods [44].

The Saudi Electronic Transactions System obliges the following:

1- According to Article 2 of the Saudi Electronic Transactions System, the subject of the transaction must be authorized by the system.

2- Both parties must explicitly agree to adopt electronic transactions by including the email address within the contract and explicitly stating the adoption. The implicit agreement is considered as explicit agreement. For example, if an electronic purchase order is issued and an invoice is subsequently issued and a portion of the amount is paid and delivered to the recipient, this includes an acknowledgement of the electronic transaction between the parties.

The party obligated to keep electronic records must carry out archiving and backup operations periodically to ensure the conditions for displaying electronic records. The system thus achieves the highest levels of authentication for electronic records, through which electronic transactions are authenticated. Without meeting the requirements mentioned in these articles, electronic documents cannot be relied upon as evidence of rights [45].

3- The creator of the electronic transaction must have the authority to act. The term "creator" refers to the person sending the electronic transaction, and it is important to determine their original capacity. If someone else sends the electronic transaction on their behalf, it becomes binding on them. If it is proven that someone exceeded their authority and sent the transaction using the creator's authorized email or used their electronic signature, the creator can hold them accountable, and the transaction is not invalidated. This is to protect the credibility of electronic transactions. This system applies to transactions conducted within the Kingdom, and they are subject to the laws of the Kingdom. However, foreign transactions or those governed by foreign laws may differ from what this system mentions. Therefore, when dealing with foreign clients or when an agreement is governed by foreign laws, it is necessary to specify the terms of the contract in a way that avoids differences in laws leading to the loss of rights.

Second: Information Crime Combat System:

This system was issued in 1428 AH and consists of 16 articles aimed at safeguarding the data and funds of electronic transactions [46], whether civil or commercial. It targets anyone who operates in the electronic environment, protecting them from the interference of violators and offenders who exploit or sabotage them under any form or name. Crimes committed through electronic media and the Internet are new crimes that require the regulator to firmly establish a legal environment that provides protection for those operating in that environment from encroaching upon the rights of others.

Considering that cybercrime differs in its understanding from traditional crimes, which the Saudi legislator defined as follows: "It is a crime that is associated, when committed, with the use of computers and information technology, and its elements are available in a virtual environment that is difficult to determine" [47]. When it comes to the perpetrator of a crime in the electronic environment and, consequently, e-commerce, we can see that they fall into one of the following categories: either the



perpetrator of the crime related to e-commerce is one of the parties to the electronic contract, namely the seller or the buyer in the online sales contract. For example, the seller may engage in fraud, deception, or scams against the buyer, or steal from the buyer's account, as payment for the goods or services in the contract is usually made electronically using the buyer's credit card. Alternatively, the perpetrator could forge the buyer's electronic signature or modify personal data. Alternatively, the buyer could be the one who commits the crime in the e-commerce contract, such as impersonating someone else during a purchase using that person's data without their permission or misusing another person's credit card.

The perpetrator of the crime related to e-commerce may also be someone other than the direct parties to the electronic contract, such as an intermediary involved in operating the technical service or the technical networks like the Internet. These intermediaries facilitate users' network access, navigate, or transfer the service [48]. To summarize the crimes related to e-commerce under this system, they can be reviewed as specified in the Saudi Arabian Anti-Cybercrime Law, from Article 3 to Article 9, which include the following crimes:

- Crimes against e-commerce websites include unauthorized access to the website, unauthorized stay without the owner's permission, manipulation of data, introduction of new data, cancellation of established data, modification of data, or infringement of intellectual property rights.

- Crime of assault on personal data. Since transactions involve the exchange of personal data between the parties to the contract, the Saudi Arabian e-Transactions Law has stipulated that those involved must take the necessary technical and technological precautions to protect the users' data in the environment from attacks, disclosure, eavesdropping, fraud, forgery, or breach of trust. The Saudi Arabian Anti-Cybercrime Law aims to punish such criminal acts through its articles, which can be referred to as the Electronic Punishment System, as it specifies the crimes and imposes various penalties depending on the severity of the electronic crime committed.

Thirdly, the Saudi Arabian E-commerce System:

The Ministry of Commerce and Investment has prepared a new system for e-commerce consisting of 27 articles that address various legal aspects of e-commerce [49]. This system aims to define the commonly used terms and phrases in e-commerce, its objectives, the validity of its provisions, the purposes of its implementation, respecting the parties' will, addressing errors in electronic communications, disclosing required electronic information, protecting consumers, conditions for service providers, regulations for electronic advertising, protecting customers' personal data, terminating the electronic contract [50], regulating e-commerce practices, and the role of the Ministry of Commerce in supervising the e-commerce sector. In addition, the system specifies the penalties for violating its provisions and includes final provisions [51].

From the above, it is clear that the Saudi e-commerce system aims to facilitate the use of electronic means in conducting transactions while taking into account the provisions of other systems without modifying or cancelling any of these provisions [52].

5.2.5. Second demand: the role of regulatory and evidentiary authorities in combating electronic commercial fraud is multifaceted, in accordance with the Anti-Commercial Fraud System.

This section will shed light on the authorities responsible for detecting violations and verifying their existence as follows:

Regulatory and evidentiary authorities play an important role in ensuring that commercial establishments comply with regulations and regulations and do not violate the regulatory rules to combat commercial fraud. To achieve this, the system grants a number of powers and roles to detect violators, as follows:

Firstly: authorities responsible for criminal regulation in the Kingdom:



No one is outside the legal scope of criminal regulation, regardless of their rank or position [53]. According to the new Saudi Criminal Procedure System [54], the competent authorities for criminal regulation in the Kingdom are defined as follows:

- Members of the Public Prosecution.
- Directors of the police and their deputies in cities, provinces, and centres.
- Officers in all military sectors.
- Governors of provinces and heads of centres.
- Heads of Saudi maritime and aviation vessels where crimes are committed on board.
- Employees and individuals authorized to exercise criminal regulation powers.
- Authorities, committees, and individuals are tasked with conducting investigations, as the regulations provide.

In fact, identifying the members of the criminal investigation team in this way was limited; Because the actions and procedures that they take as soon as the crime occurs and are related to their work are considered actions that affect personal freedom. Therefore, no person has the right to conduct criminal investigation activities unless he is among the categories that have the status of a criminal investigation. Comparative criminal procedure laws usually distinguish between two categories of those who have the right to carry out judicial investigation work:

1 - Criminal investigation officers with general qualitative jurisdiction in all types of crimes, and the criminal procedure laws distinguished between two categories of members of the sect, the first category whose jurisdiction is limited to specific local departments, while the second category extends its competence to all parts of the country [55], and its applications for this are the text of the Saudi regulator: “ However, the director of public security, the director of police, and the men of public security are directly responsible before the government for establishing security in the country, each in his area of competence. This is because the General Investigation Service in the Kingdom of Saudi Arabia is the only one competent to deal with all state security crimes in terms of investigation, control, and seizure.

2- The judicial control authority with special competence. They are entrusted with carrying out judicial control work regarding certain crimes that fall within their jurisdiction and are related to the jobs that they originally performed. These include customs officials in the Kingdom with regard to customs smuggling crimes and employees of the Ministry of Commerce with regard to commercial fraud crimes [56].

The task of the criminal investigation officers is to collect inferences to detect crimes under the supervision of Public Prosecution. Thus, immediately, as it is the competent authority to dispose of the accusation based on the evidence contained in the record of evidence [57], If the Public Prosecution finds that there is no reason to proceed with the case, it may order the preservation of the papers, and it also has the right to initiate a criminal case by referring the accused directly to The competent court, based on the minutes of evidence, or conducting an investigation therein, if the crime was a major crime, or if it became clear to it that the acts of evidence were not sufficient to reveal the truth [58].

Second: Criminal Investigation Acts:

1- Investigation procedures:

The investigation is: putting effort into seeking what is intended or asking for something with the most probable expectation when the truth is not established [59].

Among the duties of the members of the criminal investigation department is to investigate and detect crimes search for and apprehend the perpetrators [60]; and for the investigations to be sound and productive, they must be characterized by seriousness and proceed within the facts that fall within the qualitative and spatial jurisdiction. These investigations must also include all evidence useful in reaching a conclusion about the truth.

2: Receiving communications and complaints:



Communication has an important and constructive role in communicating the news of the incident to the competent authority, whether this communication is in writing or orally, and whether this communication is through the victim or others. The guardian authorizes him by virtue of his position to receive these complaints, and these complaints are the notification of the perpetration of an act or an infringement of the public or private rights of the defendant [61], The communication is usually submitted by the consumer when commercial fraud is discovered on a product, and the complaint is submitted by the consumer affected by adulterated goods. Upon verifying the existence of the violation, they complete the legal procedures, as well as seizing, confiscating and destroying the adulterated products, and seizing the statements of the violators [62], and sending them to the Public Prosecution after completing the case file, as it is the competent authority to investigate commercial fraud crimes, as stipulated by the Saudi regulator: “On Criminal investigation officers, each according to his competence, may accept reports and complaints that come to them in all crimes [63]

3- Inspection and entry of commercial establishments:

The Anti-Commercial Fraud Law gave criminal investigation officers the authority to enter and inspect establishments based on a report or complaint or in the event of inspection tours. In order to detect violations and inspect the facility’s building or warehouses, or their transport vehicles, they have the right to request the opening of closed places. Among these tasks are entrusted. They also have the right to carry out their job duties, and they have the right to inspect all parts of the store, both external and internal, in order to ensure that the establishments comply with the implementation of the regulations and to detect violations of the anti-commercial fraud system [64].

Some commentators of the law believe that the entry of establishments is limited to the purpose of entry and that the authority of the criminal investigation officers is restricted to the inspection of the products that are visible without the inside, unless there is a case of flagrant delicto, and the inspection of the store does not include the inspection of the offices attached to the store, because of their sanctity such as the sanctity of private housing and that the authority of a party Judicial arrest shall be within the limits stipulated by the system, and it is not permissible to expand on that unless there is a legal provision explicitly stating that [65].

First: The regulator has granted criminal investigation officers the authority to enter and inspect facilities during official working hours or when there is a report or complaint to monitor the extent to which they implement the system and not violate it.

Second: Its analogy to the sanctity of housing is not correct, because the dwelling has a special sanctity, so no one may enter it except with the permission of its owner or with the permission of the Public Prosecution when there are strong reasons for that, such as the existence of a crime and the like, and that the commercial establishments have a regulation for their entry to ensure that the laws and regulations are applied, and violations are detected. Anti-commercial fraud system.

Through the foregoing, it is clear that the Saudi regulator has granted criminal investigation officers the right to enter commercial establishments and their affiliated places without restrictions as long as they belong to the establishments and are not affiliated with the owner or employees of the establishments to ensure that there are no violations of the anti-commercial fraud law, and granting the regulator the right to enter The offices of the establishment, if entering them would lead to ensuring the application of commercial fraud regulations and instructions, as the Saudi regulator stipulated: “Entering and inspecting the establishments in which the products subject to the provisions of the system and its implementing regulations are located, and what is attached to these establishments in terms of warehouses, storage places, means, or others” [66].

The Saudi regulator clarified the permissible times for the criminal investigation officers, as the regulator specified the actual working hours of the facilities, which is the time when the facilities open their doors to the public, and if the facilities are closed, they do not have the right to request their opening, because then their sanctity is attached to the sanctity of private housing [67], and they have the right to enter If

the store is closed outwardly, such as closing its doors to the public with the employees inside [68], And the Saudi regulator gave the criminal investigation officers the authority to close the suspected place when they were prevented from entering the establishments and to search them until they were able to enter, as well as to search for violations or to verify reports and complaints received by them that there was a violation of the anti-commercial fraud law, and in the event that they were not able to do so voluntarily, they have The right to seek the assistance of specialized security agencies to enable them to do so [69].

4- Retaining suspicious products and taking a sample from them for examination:

In the event of a suspected violation of the provisions of the Anti-Commercial Fraud Law and its implementing regulations, the criminal investigation officer has the authority to seize and control suspected products, and to draw random samples from them for examination and analysis [70].

The sampling process is carried out in accordance with the controls and procedures specified by the implementing regulations of the system [71], and the samples drawn must be according to the controlled quantities and according to what is required by the approved specifications of the product or the examination requirements [72], with a label placed on the drawn sample that includes the name of the sample, the name of its owner, and the date it was taken, And its serial number, and this is proven in a report prepared by the control officer and sent to one of the laboratories accredited by the Ministry of Commerce. The merchant is prohibited from disposing of the suspected product before the results of the examination and analysis appear, and he is notified of it [73].

Criminal investigation officers may not dispose of the product except after the result appears, except that if the suspected product is harmful to public health and safety, a precautionary seizure order may be issued on it, and it may be withdrawn from the market by the Minister in the event that initial reports suspect the existence of a nest in the product, and it shall be displayed Precautionary seizure order in the competent court within a period not exceeding 72 hours to consider whether or not to sign this order, and the final decision on whether or not to confiscate is only after receiving the final result of the analysis of the samples drawn from the product [73].

The sampling takes place in the event of suspicion to ascertain the existence of a violation or not because some adulterated products do not appear until after examination and analysis by private laboratories, and accordingly, if a confirmed violation is found, such as selling expired products, then the judicial control officer seizes and confiscates all the violating products, and there is no need at that time to withdraw Samples are considered a case of flagrant delicto with the crime of commercial fraud.

Third: Powers of Criminal Arrest Members in the Investigation:

The general rule in comparative laws requires that the jurisdiction of the judicial police be limited to all inferences, and its powers do not extend to investigation work. Sometimes a member of the judicial police is delegated or assigned to carry out a specific investigation procedure, and the laws also authorize the judicial arrest authority to take some investigative measures affecting freedom, such as arrest and search in the event of flagrant delicto, which is an exceptional circumstance that requires direct and rapid intervention to preserve evidence of the crime [74], and among the justifications for granting the judicial control officer For the investigation, the investigator does not have enough time to conduct all the investigation procedures, and the exigencies of urgency may require him to seek the assistance of someone who is closer to him, in addition to that it may prevent the employee's adherence to his local specialization from moving - if the situation calls for that - to places outside his local jurisdiction [75].

A - The jurisdiction of the criminal judicial arrest authority in cases of flagrant delicto:

1- Arresting and searching the accused:

Criminal investigation officers may, in cases of flagrant delicto, in accordance with the Saudi Law of Criminal Procedure, arrest and search any person [76], and the Saudi regulator also stipulates: "The crime is flagrante delicto at the time of its commission, or shortly after its commission, and the crime is considered flagrante delicto if the victim follows a person or The public followed him after its



occurrence, or if the perpetrator was found shortly after its occurrence, carrying tools, weapons, luggage, tools, or other things from which it is inferred that he is an actor or partner in it, or if traces or signs were found on him at this time indicating that.

5.2.6. The third demand: is the role of the judicial authorities in applying appropriate penalties for electronic commercial fraud crimes.

First: Public Prosecution in the system:

Public Prosecution: It is part of the judicial authority, it enjoys complete independence, and is organizationally linked to the king, and no one has the right to interfere in its work [76]. Among the functions of the Public Prosecution, according to what was approved by the Saudi regulator, are the following:

The Public Prosecution Office, in accordance with the regulations and what is specified in the regulatory regulation, is responsible for the following:

A - Investigating crimes.

b- Dispose of the investigation by filing or filing the lawsuit in accordance with what is specified by the regulations.

C - Prosecution before the judicial authorities.

D - Request to appeal or set aside judgments.

e- Supervising the implementation of penal judgments.

f- Overseeing and inspecting prisons, detention centers and any places where criminal sentences are executed, and listening to the complaints of prisoners and detainees, verifying the legality of their imprisonment or detention, and the legality of their remaining in prison or detention centers after the expiration of the period, and taking the necessary measures to release those imprisoned or arrested without a legitimate reason. And applying what the regulations stipulate against those who caused this, and the Minister of Interior must be informed of the observations that appear in this regard, and a report must be submitted to him every six months on the status of prisoners and detainees.

As an exception to the provisions of Articles Nineteen and Twenty of the Council of Ministers Law, it is permissible, by a decision of the Council of Ministers, to assign the investigation and prosecution to the Public Prosecution in crimes that the regulations provide for assigning the investigation and prosecution to other government agencies [77].

Second: The preventive role of the Public Prosecution in the crime of electronic commercial fraud:

The Kingdom of Saudi Arabia is keen to protect citizens and preserve their rights, increase their security confidence and sense of stability, and maintain public order and the interests of individuals and society as a whole. For this reason, the Kingdom of Saudi Arabia grants the Public Prosecution the authority to try the accused person and impose punishment on him, and this is done when it imposes a criminal sentence On the person accused in criminal cases in the Kingdom of Saudi Arabia, and this method confirmed by the regulator in order for individuals and their rights to be preserved and the criminal to be punished, and to know the role of the Public Prosecution in criminal cases.

It is worth noting that the goal of criminal cases is to protect the rights of individuals from acts that harm them, whether they are individuals or society in general. Litigation in criminal cases is a common legal phenomenon, as any individual in society has the right to appeal in the courts through the competent authority, and according to the provisions of Article 15 and what is stated therein - the Public Prosecution - the investigator either carries out the investigation procedures himself or appoints criminal investigators to carry out the procedures necessary, or the presence of the accused is required to stand in the competent court, according to the importance of each case, as there is evidence of ordinary and minor crimes that do not need investigation, but are recorded directly in the court.

Also, Article (5) stipulates that the Public Prosecution is predominantly judicial, due to the nature of its activities, the enjoyment of independence and immunity by its members, and the fact that it applies Islamic laws and regulations.



Thus, the role of the Public Prosecution in criminal cases is through its ability to deter and apprehend criminals.

Crimes, imposing the necessary penalties for violators, limiting individual crimes, protecting victims and restoring their rights, and deterring and punishing anyone who encourages the commission of a crime. And it stipulated that: “Criminal investigation men are subject - with regard to their functions in criminal investigation established in this system - to the supervision of the Public Prosecution, and the Public Prosecution may request the competent authority to look into the matter of everyone who commits a violation of his duties or defaults in his work, and it may request a removal Disciplinary action against him, and the Public Prosecution shall be notified of what has been done in connection with that request, without prejudice to the right to file a criminal case.

It is clear from this that the Saudi regulator granted the criminal investigation officers the work of his entrusted to them, and these actions aim to verify commercial fraud crimes and make sure that they occurred, and then they are submitted to the Public Prosecution to take its course in whether the criminal case is filed or preserved according to the strength of the evidence and clues that the judicial officers reached.

The Kingdom of Saudi Arabia has been concerned with establishing commercial courts related to applying provisions related to the commercial judiciary. The Saudi commercial judiciary passed through several stages that witnessed great development in the enactment of regulations and instructions that are flexible and original. Through the following, the judicial authorities concerned with applying penalties related to electronic commercial fraud crimes will be addressed. As follows:

The text of the Saudi regulator [78]: “The court is competent to consider the following:” Disputes that arise between merchants because of their original or subsidiary business, lawsuits brought against the merchant in commercial contract disputes, and violations arising from the application of the provisions of the Companies Law, lawsuits and violations arising from the application of the provisions of the Law Bankruptcy, lawsuits and violations arising from the application of intellectual property systems, lawsuits and violations arising from the application of other commercial systems, and consideration of claims for compensation for damages arising from a lawsuit previously considered by the court.

The jurisdiction of the commercial courts is included in the damage lawsuit filed against the merchant because of the original or ancillary commercial activities, whether the plaintiff is a party to the contract with the merchant or not, with the exception of what falls within the jurisdiction of the general court in terms of lawsuits related to real estate and lawsuits arising from traffic accidents [79].

The Saudi regulator recently issued a decision to transfer the jurisdiction of the Saudi commercial judiciary to the commercial courts from the Board of Grievances (the administrative judiciary) to the commercial courts in the general judiciary, and this judiciary is a continuation of what the Saudi regulator ruled [80]. And when the commercial courts were established, the Supreme Judicial Council issued a decision including the removal of the primary commercial circuits and the commercial appeals circuits affiliated to the Board of Grievances to the commercial courts and circuits of the general judiciary and their jurisdiction as of 1/1/1439 [81].

Third: Jurisdiction of Commercial Courts:

Commercial courts are concerned with lawsuits and violations arising from the application of commercial laws. It is known that many commercial laws govern commercial activities in the Kingdom, and it is stipulated in them that the Board of Grievances courts have jurisdiction over disputes arising from their application [82]. By disengaging the commercial departments from the Board of Grievances, the jurisdiction over these disputes has been transferred to the commercial courts. However, the jurisdiction remains held for the Board of Grievances (administrative courts) with regard to lawsuits and violations involving an administrative dispute related to the application of these regulations, the most important of which are:



1- The Commercial Fraud Law issued by Royal Decree No. M/19 dated 4/23/1429 AH. Article 13 of this law stipulates the jurisdiction of the Board of Grievances to adjudicate all violations, disputes, and claims for compensation arising from the application of its provisions [83].

Among the examples that fall under the jurisdiction of commercial courts are commercial fraud operations, especially when a trader imitates a trademark of another trader or publishes false information about him or the trade he practices or lures his workers to know his secrets or know the customers who deal with him, as well as disputes arising from damages. Caused by the things in his custody to others, such as machines, devices, and equipment that he uses in commercial activity.

The foregoing clearly shows that the Saudi regulator has singled out the commercial courts for applying the provisions, regulations, and executive regulations related to the commercial systems. In the event that evidence of the accusation resulting from the inference and investigation is available, and when this evidence is sufficient to indicate that he committed the crime, the next procedure is to refer the accused to the next stage of the criminal case, which is the trial stage, in order to assess the evidence that was collected in the previous procedural stages and then Then decide the fate of conviction or innocence, and the Saudi regulator stipulated regarding the trial procedures as follows: “The competent court shall adjudicate all violations, disputes, and claims for compensation arising from the application of the provisions of this system.”

And whenever the Consumer Protection Agency decides to refer the accused to the competent authority for trial, it issues a referral order to the competent authority, in which the crime ascribed to the accused, evidence of its commission, the penalty required to be applied, and all the papers and documents related to the incident and the actions that were taken appear [83].

It is clear that the Saudi regulator stipulated that the crime of commercial deception beside the crime of commercial fraud, and from this it is clear that the Saudi regulator did not differentiate between the crime of deception and the crime of commercial fraud in terms of punishment, as the Egyptian regulator differentiated between them [84]. Evidence for this is that the decisions issued by the Committee for Adjudication of Commercial Fraud Violations came devoid of adapting the case of the criminal incident. Is it deception or fraud?

Among the decisions taken by the aforementioned committee are the following:

- 1- Since it was proven that the institution sewed jalebis in the institution’s own workshop, and it was written on it that the manufacture of these jalebis is a Bahraini industry, and since this work violated the text of Article 1 of the Anti-Commercial Fraud Law, and it did not stipulate that this act committed by the institution is punishable by the system with a fine. From five thousand to one hundred thousand riyals, whoever deceived or attempted to deceive or deceive or attempted to deceive the source of the commodity. Therefore, after studying and contemplating unanimously, the committee decided to fine the institution a fine of twenty thousand riyals, with the decision of the penalty being published in one of the media on himself enterprise [85].

2 - What the company has done in terms of manufacturing chocolate and biscuits that is less than the weight written on the packaging according to the report of the Central Quality Laboratory in Riyadh is a violation of Article 1 of the Anti-Commercial Fraud Law, which stipulates the punishment previously mentioned, so the committee decided, after studying and unanimously, to fine the company with a fine. A financial amount of ten thousand riyals and the publication of the penalty in a local newspaper at the expense of the company [86]. It is noted that these and other decisions issued by the committee did not specify whether the act was fraud or deception.

From the foregoing, it is clear that the Saudi system and the committee concerned with adjudicating the issuance of decisions on commercial fraud have adopted a non-discrimination between deception and fraud because each of them deceives the contracting party without the truth, and because deception precedes fraud, as deception is the means to fraud [87].



5.2.7. The fourth demand: is the role of the enforcement authorities in enforcing the legal rulings related to electronic commercial fraud crimes.

Through this requirement, the role of the enforcement agencies in implementing the judgments issued by the competent court on those accused of electronic commercial fraud crimes will be listed, and what is the authority authorized to implement these provisions as stipulated in the Saudi Criminal Procedures Law?

First: A summons summoning the accused to appear before the investigation at the time and place specified for him in the summons, intending to question him or take any action against him [88]. The order to appear does not authorize the men of the public authority to implement it by force, as it is merely a notification to the accused instructing him to appear before the investigator, but if the accused does not appear after being summoned to appear, without an acceptable excuse, the investigator may issue a warrant for his arrest and summon him, and the investigator may issue a summons to appear for one of the witnesses in the case. Whenever this is necessary for the purposes of the investigation, then the summons to appear is an order for the accused to appear equally with the rest of the litigants in the case or the witnesses, and force is not used to implement it. The investigator may issue a summons for the accused to appear in connection with any crime, serious or minor.

The text of the Saudi regulator: “The investigator in all cases shall decide - as the case may be - the presence of the person required to be investigated or issue a warrant for his arrest if the circumstances of the investigation so require.” The Saudi criminal procedures include the name of the person required to appear in quadruple, his nationality, profession, job, place of residence, the date of the order, the hour and date of attendance, the name of the investigator, his two signatures, and the official seal. Through one of the bailiffs or men of the public authority, a copy of it is handed over to him, if any. Otherwise, it is handed over to one of his fully qualified family members residing with him, and the Saudi Criminal Procedure Law did not indicate how to declare a legal person, and Article (64) of the Sudanese Code of Criminal Procedure specifies how to declare the personality. The legal person and the authorities announce by delivering one of the two forms of summons to the director, the secretary, or any responsible employee in any of its offices, and according to Article (106) of the Saudi Law of Criminal Procedures, the orders issued by the investigator are valid throughout the Kingdom [89].

Second: the order of arrest and habeas corpus:

A- What is it and distinguishes it from summons:

It is an assignment procedure according to which the investigator directs the men of the public authority to arrest the accused and bring him, and this procedure is called arrest if the accused is present and an order to arrest and bring him if he is absent [90], and arrest deprives the person of freedom for a short period, by detaining him in the place designated by the law for that [91], and the original. With regard to arrest, it is an investigation procedure, and therefore the order is issued by the investigation authority, and the investigator issues the order of arrest and habeas corpus in the following cases [92].

- 1- If the accused does not appear after being summoned without an acceptable excuse.
- 2- If it is feared that the accused will flee.
- 3- If the accused does not have a known place of residence.
- 4- If the crime was in flagrante delicto.

The rule in some criminal procedure laws in Arab countries is that the investigator may order the arrest of the accused and bring him in whenever the crime is for which precautionary detention is permissible, i.e. in felonies and misdemeanors [93].

In the Saudi system, the organizer specified cases where the investigator may issue a warrant to arrest the accused and bring him in. The system stipulated: “If the accused does not appear - after being formally summoned - without an acceptable excuse, or if he is feared to flee, or if the crime is in flagrante delicto, the investigator he may issue a warrant to arrest him and bring him in, even if the



incident is one in which it is not permissible to detain the accused.” The public order to arrest the accused and bring him before the investigator if he refuses to appear voluntarily.

Among the judicial rulings in the Saudi system:

Topics: jurisdiction - jurisdiction - decisions of the Committee for Adjudication of Commercial Fraud Cases:

Requesting the plaintiff to cancel the committee adjudicating commercial fraud cases, which includes punishing him by fining him fifty thousand riyals and closing his store for a week for possessing expired foodstuffs - it is learned from the text of Article (16) of the Anti-Commercial Fraud Law that the decisions issued by the commercial fraud committees are final after the approval of the Minister of Commerce and Industry With the exception of the penalty decision that includes imprisonment, it may be appealed before the Board of Grievances - the grievance decision does not include the prison sentence, which means that it has become final after the approval of the competent minister - as a result of this, the Board has no jurisdiction to consider the case.

Laws and regulations:

Articles (16-17) of the Anti-Commercial Fraud Law issued by Royal Decree No. (M/11) dated 5/29/1404.

Facts:

As the facts of this case are obtained in that a summons was submitted to the Diwan for registration of Case No. (1/1742/S) and the date of 9/8/1423 requesting the annulment of Decision No. (4) dated 2/27/1422 AH, issued by the Committee Adjudicating commercial fraud cases by upholding its Decision No. (1) dated 1/2/1421 AH, which includes convicting him of possessing expired foodstuffs and punishing him for that by fining him fifty thousand riyals and closing his shop for a week. He mentioned in his summons an explanation of his claim that he was trading in fish as a result of a fire. In the house next to the refrigerator, and as a result of the weather conditions, the fish was spoiled, so a report was drawn up that he possessed spoiled fish, and based on the report, the decision complained of was issued, and the case was referred to this department for its consideration as indicated in the records of the seizure during the pleadings. Acceptance of the case based on the fact that Article (17) of the Anti-Commercial Fraud Law stipulates that the decisions of the commercial fraud committees are final after approval by the Minister of Commerce, except for the decisions of the penalty that include imprisonment, in which case it is permissible to complain about it before the Court, and the decision appealed against does not include in the operative part the penalty of imprisonment, which It means that it has become final after the approval of the Minister of Commerce.

The reasons:

As the plaintiff aims by filing a lawsuit to judge him to cancel the decision in question issued by the Committee for Adjudication of Commercial Fraud Cases in Riyadh, and since Article (Sixteenth) of the Anti-Commercial Fraud Law issued by Royal Decree No. (M / 11) dated 5/29 1404 AH stipulates that (it shall undertake the imposition of the penalties stipulated in this system and complete what it deems appropriate of investigations of committees formed by a decision of the Minister of Commerce) and Article (seventeenth) of the same system stipulates that the decisions of the committees referred to in the previous article are considered final after the approval of the Minister of Commerce Except for the penalty decision that includes imprisonment, the person against whom this decision was issued may complain before the Board of Grievances within thirty days from the date of his notification, and as it is learned from the aforementioned text that the decisions issued by the commercial fraud committees are final after the approval of the Minister of Commerce and Industry, and it came in The explanatory memorandum of the Diwan system states that the administrative decisions issued in cases are considered by committees formed according to a statutory text, a decision of the Council of Ministers, or a supreme order. Whereas the matter is mentioned, the consideration of this case is outside the jurisdiction of the



Diwan, therefore the circuit ruled that the Diwan is not competent to consider this case filed by M against the Ministry of Commerce.

And God is the conciliator, and may God's prayers and peace be upon him, our Prophet Muhammad, and his family and companions.

Auditing body:

The Commission ruled to support the ruling in the final judgment.

Through the foregoing, it is clear that the Saudi regulator applied in this case the provisions of Article Sixteen of the Anti-Commercial Fraud Law, as this article stipulates: "Anyone who Whoever commits one of the violations stipulated in Article (2) of this system.

Criminal investigation officers are subject - with regard to their duties in criminal investigation established in this system - to the supervision of the Public Prosecution, and the Public Prosecution may request the competent authority to look into the matter of anyone who commits a violation of his duties or defaults in his work, and it may request the filing of a disciplinary action against him. The Public Prosecution shall be notified of what has been done in connection with that request, without prejudice to the right to file a criminal case.

- The Kingdom of Saudi Arabia spares no effort from government ministries playing its role in combating the crime of electronic commercial fraud in order to protect the consumer from adulterated goods that enter and are in violation of the specifications and standards approved within the Kingdom of Saudi Arabia, as these institutions play their supervisory role and inspection campaigns have an important and constructive role in consumer protection Of these counterfeit goods and in violation of specifications and standards.

The Kingdom of Saudi Arabia followed the example of European and Arab countries in working on consumer protection, as it aimed to protect the consumer from fraud and deception, especially from counterfeit goods that do not comply with the specifications and standards in force in the Kingdom of Saudi Arabia, and to provide guidance and support to the consumer by providing advice on the purchase and trade process.

CONCLUSION

In conclusion, the Saudi regulator has implemented various systems to safeguard consumers against manipulation and fraud related to product identification data. One such system is the establishment of a commercial data system, which mandates manufacturers and importers to include all relevant data (such as specifications, standards, and other details) on the product itself. This includes information such as the quantity, size, measure, capacity, weight, production date, expiry date, composition, country of origin, manufacturer's name, product characteristics, and any patents, industrial property rights, concessions, awards, or advantages associated with the product.

The accuracy of a commodity is determined by its adherence to the specifications and standards established by countries to protect consumers from commercial fraud. A product is considered genuine and trustworthy when it complies with these specifications and standards. However, when it deviates from them, it falls under the category of commercial fraud. Insufficient protection of consumers' personal electronic data exposes them to vulnerabilities, making it easier for unauthorized access and manipulation, ultimately leading to negative impacts and harm to consumers.

Electronic commercial fraud is a transnational crime that poses challenges in terms of prosecution. Perpetrators of such crimes are often skilled in computer programs and possess the ability to carry out their criminal activities while erasing traces of evidence. Consequently, the enforcement of laws, regulations, and penalties related to these crimes becomes challenging.



The judicial control body serves as an auxiliary entity to the Public Prosecution and the judicial authority, playing a crucial role in uncovering crime circumstances, prosecuting offenders, and apprehending them for legal proceedings. The evidence provided by judicial officers is instrumental in making indictment decisions and judicial rulings.

Judicial control officers have significant responsibilities, including a preventive role in ensuring the safety and compliance of goods in shops with Saudi specifications and standards. They also assist in identifying individuals involved in commercial fraud crimes concerning products offered for sale, thereby protecting consumers prior to making purchases. With regard to their duties outlined in this system, criminal investigation officers are subject to the supervision of the Public Prosecution. The Public Prosecution has the authority to request investigations into individuals who violate their duties or exhibit misconduct in their work. It may also request disciplinary action against them. The Public Prosecution must be informed of any actions in response to such requests while retaining the right to initiate criminal proceedings.

The Kingdom of Saudi Arabia is committed to combatting electronic commercial fraud through the concerted efforts of government ministries. These institutions play a supervisory role and carry out inspection campaigns to protect consumers from counterfeit goods that fail to meet approved specifications and standards within the country. The Kingdom has followed the example of European and Arab countries in prioritizing consumer protection and aims to prevent fraud and deception, particularly concerning counterfeit goods that do not comply with the applicable specifications and standards. Additionally, the Kingdom provides guidance and support to consumers by offering advice on purchasing and trading processes.

REFERENCES

- [1] The Anti-Commercial Fraud Law, issued by Royal Decree No. M/19 dated 4/23/1429.
- [2] The electronic commerce system issued by Royal Decree No. M/126 dated 7/11/1440.
- [3] The Economic Importance of Consumer Protection Legislation, by Abdullah Abdulaziz Al-Saeedi, 1998 , p. (2)
- [4] Consumer Behavior, by Khaled Abdul Rahman Al-Jeraisy, 3rd edition in 2006, Al-Jeraisy Encyclopedia of Distribution and Advertising, Riyadh, p. (42).
- [5] Consumer Protection in Private International Law, by Dr. Khaled Abdel-Fattah, Dar Al-Nahda Al-Arabia, Cairo, 2002, p. (16). Quote
- [6] Article (1) of the Consumer Protection Association organization.
- [7] The Creator's Grant on the Brilliant Sea, by Ibn Abdeen Muhammad Amin bin Omar al-Hanafi, 1st edition, Dar al-Kutub al-'Ilmiyyah, Lebanon, Beirut, 1990 (6/58),
- [8] Fraud in Civil Transactions, by Muhammad Muhammad al-Sarwi, Dar al-Fikr wa al-Qanun, 2008 - Egypt, p. (42).
- [9] The crown and wreath of Mukhtasar Khalil, by Muhammad Yusuf Abu Abdullah Al-Mawaq, 1 edition in 1416 AH - 1994, Dar Al-Kutub Al-Ilmiya (6/195).
- [10] Hashiyat al-Jamal on explaining the methodology, the conquests of al-Wahhab, by clarifying the explanation of the methodology of the students, by Suleiman bin Omar bin Mansour al-Azhari, known as al-Jamal, Dar al-Fikr (3/5).
- [11] Legal protection for the consumer in electronic commerce contracts, a comparative study, Dr. / Abdel Raouf Hassan Abu Al-Hadid, Dar Al-Fikr and Al-Qanun for publication and distribution, Mansoura, Egypt, 2019 edition, pg. 54.
- [12] Legal protection for the consumer in electronic commerce contracts, a comparative study, previous reference, p. 56.
- [13] The conclusion of the electronic contract, Khaled Mamdouh Ibrahim, a comparative study, Dar Al-Fikr University Alexandria 2011, p. 43
- [14] Electronic commerce contracts, Muhammad Ibrahim Al-Haija, Dar Al-Thaqafa, Amman 2010, p. 40



- [15]3- The conclusion of Internet marketing, Muhammad Ahmed Abu Al-Qasim, 1st edition, Dar Al-Amin, Cairo 1420 AH / 2000, p. 17
- [16] The privacy of contracting via the Internet, Osama Abu Al-Hassan Mujahid, Dar Al-Nahda Al-Arabiya, Cairo, p. 2000, p. 34
- [17]Article 2 of the Emirate of Dubai Law on Electronic Commercial Transactions, Law No. (2) of 2003 regarding electronic transactions and commerce.
- [18] The Saudi Electronic Transactions System issued by Royal Decree No. (M/18) dated 3/8/1428.
- [19]The electronic commerce system issued by Royal Decree No. (8/136) dated 7/11/14440.
- [20]The origins of the Electronic Commerce Law according to the Electronic Commerce Law for the year 1440 and the Electronic Transactions Law for the year 1428., Adnan bin Saleh Al-Omar, King Fahd National Library, Riyadh, 1st edition, 1440 / 2019, p. 13.
- [21]Ibn Hajar transmitted it in Fath Al-Bari (4/424).
- [22] Electronic Commercial Fraud, a PhD thesis submitted by Abd al-Ilah bin Ahmad Abd al-Malik bin Ali - Naif Arab University for Security Sciences - in 1435 - Riyadh - p. (34).
- [23] Responsibility for commodity fraud, by Ibrahim Ahmed Al-Bastawisi, a comparative study between Islamic jurisprudence and commercial law - House of Legal Books - Egypt - in 2011, p. (94).
- [24]Obligation before contracting to inform in the sale contract, by Abdel Aziz Al-Mursi Hammouda, Faculty of Law - Menoufia University - in 2005 - pp. (27-35).
- [25] Consumer Protection from Commercial and Industrial Fraud, Abdullah Hussein Ali Mahmoud, Dar Al-Nahda Al-Arabia, Cairo, 2002 ` , p. 9 and beyond.
- [26]Legal protection for the consumer from commercial fraud in the light of consumer protection laws, Center for Arab Studies for Publishing and Distribution, Al-Jazeera, Egypt, 1st edition, 1441, p. 71.
- [27]Criminal Protection for the Consumer in Crimes of Fraud and Fraud, Mr. Khalaf Allah Abdullah Ahmed, Ph.D. Thesis, College
- [28]Law, Ain Shams University, Cairo, 1998, p. 219.
- [29] Responsibility for fraud in commodities - a comparative study between Islamic jurisprudence and commercial law - Ibrahim Ahmed Al-Bastawisi, Dar Al-Kutub Al-Qanuni, Egypt, 2011, p. 59.
- [30]The general theory of criminalizing fraud, Shehata Ismail Ahmed, PhD thesis, Faculty of Law, Cairo University, 2002, p. 276.
- [31]Commercial fraud, Muhammad Mukhtar Al-Qadi, New University House, Alexandria, 2010, p.17
- [32]Responsibility for fraud in commodities - a comparative study between Islamic jurisprudence and commercial law - Ibrahim Ahmed Al-Bastawisi, previous reference, p. 62.
- [33]Fraud in electronic commercial transactions between jurisprudence and the Saudi system, by Fahd bin Ibrahim bin Ali Al-Hoshan, master's thesis in jurisprudence and its origins, College of Graduate Studies - University of Jordan, citing Islamic criminal legislation compared to positive law by Abdul Qadir Odeh, pp. (74-75).
- [34] Contractual Protection for the Consumer, by Dr. Omar Mohamed Abdel-Baqi Khalifa, PhD thesis on Comparison between Sharia and Law, Faculty of Law, Ain Shams University - 1425 - 2004, pp. (135-136).
- [35] The Legislative Protection of the Consumer, by Anwar Ahmed Raslan, a research presented to the symposium (Consumer Protection in Sharia and Law), 1998, p. (5).
- [36]Consumer Protection Association Article (4-5).
- [37] The executive regulations of the audiovisual media system, Article (9).
- [38] Narrated by Al-Tirmidhi, Al-Targheeb wa Al-Tarheeb (2/322).
- [39] Narrated by Al-Asbhani and others, Al-Targheeb wa'l-Tarheeb (2/322).
- [40] Narrated by Al-Tirmidhi and Ibn Majah, Al-Targheeb wa Al-Tarheeb (2/324).
- [41]Narrated by Al-Asbhani and Al-Bayhaqi, Targhib wa'l-Tarheeb (2/323).
- [42]Revival of Religious Sciences, by Abu Hamid Muhammad Muhammad al-Ghazali, Dar al-Ma'rifah, Beirut - Lebanon - in 1402 - 1982, p. (3/136).



- [43] Narrated by Muslim, Hadith (102), and Al-Tirmidhi included it in the Book of Sales, Chapter: What came about the dislike of fraud in sales, Hadith (1315).
- [44] The Anti-Commercial Fraud Law issued by Royal Decree No. M/19 dated 4/23/1429, Article (2).
- [45] Issued by Royal Decree No. (M/18) dated 3/8/1428
- [46] Electronic commerce in the Saudi system, Ayed bin Sultan Al-Baqami, Dar Al-Ejadah for Printing, Publishing and Distribution, 1st edition, 1437 / 2017, p. 61
- [47] The Use of Electronic Discourses in International Contracts, Munir Al-Janabihi, and Mamdouh Muhammad, 1st edition, Dar Al-Fikr Al-Jami'i, Alexandria, 2006, p. 56.
- [48] Royal Decree issued this system No. (79) dated 7/2/1428
- [49] Article 1 of the Saudi Information Crimes Law.
- [50] Electronic commerce in the Saudi system, Ayed bin Sultan Al-Baqami, previous reference, p. 61.
- [51] Issued by Royal Decree No. (/126) dated 7/11/1440.
- [52] Articles (20, 21) of the system.
- [53] Articles (22-25) of the system.
- [54] Electronic commerce in the Saudi system, Ayed bin Sultan Al-Baqami, previous reference, pp. (69-70).
- [55] Judicial jurisdiction of the police officer, by Muhammad Odeh Al-Jabour, a comparative study, the Arab House for Encyclopedias - Beirut, 1406 - 1984, p. (58).
- [56] Article (26) of the new Saudi Criminal Procedure Law issued in 1435 .
- [57] The Origins of Criminal Procedures, Hassan Sadiq Al-Marsafawi, Manshaat Al-Maarif Alexandria, 1996, pp. 233-236.
- [58] Article Five of the Saudi Public Security Law issued by Royal Decree No. 30 dated 4/12/1384.
- [59] The Origins of Criminal Investigation, Madani Abd al-Rahman Taj al-Din, a comparative study, Al-Rushd Library, 2nd edition 1440/2019, p. 38.
- [60] Article (24-25-27) of the Saudi Criminal Procedures Law issued in 1435.
- [61] Article 27 of the Saudi Criminal Procedure Law issued in 1435.
- [62] Article 63, 65 of the Saudi Criminal Procedure Law issued in 1435.
- [63] Clarifications on the Criminal Procedures System, Inference and Investigation, Ibrahim Hussain Al-Mojan, Trial and Implementation, 3rd edition in 1430- 2009 p. 42.
- [64] Article 24 of the Saudi Criminal Procedures Law was issued in 1435.
- [65] The Islamic Criminal Encyclopedia, Saud Al-Otaibi 1/180.
- [66] Criminal Procedures Guide, Ministry of Interior, p. 19.
- [67] Article 5, 7 of the executive regulations of the Anti-Commercial Fraud Law, 1431.
- [68] Article 27 of the Law of Criminal Procedures 1435 AH, Criminal Protection for the Consumer, Rossum Attia, pp. 399-400.
- [69] Paragraph 2 of Article 7 of the executive regulations of the Anti-Commercial Fraud Law, 1431.
- [70] Powers of criminal investigation officers according to the Omani Consumer Protection Law, Saeed Al-Gharibi, p. 2.
- [71] Powers Granted to Criminal Enforcement Officers in Light of the Saudi Penal Procedures System, Abdul Aziz bin Musleh Murbah Al-Shammari, A Survey Study of Criminal Enforcement Officers in Al-Jouf Region Police, Master Thesis, College of Graduate Studies, Naif Arab University for Security Sciences, Riyadh, p. 28.
- [72] Article 7 of the Regulations for Combating Commercial Fraud issued by Ministerial Resolution No. 155 dated 6/1/1431.
- [73] Paragraph 2 of Article 7 of the Anti-Commercial Fraud Regulations 1431.
- [74] Explanation of the Code of Criminal Procedure, Mahmoud Mustafa, 12th edition, Cairo - Dar Al-Nahda Al-Arabiya in 1988, pp. 222-223.
- [75] Article 7 of the Anti-Commercial Fraud Regulations, 1431.
- [76] Article 7 of the Anti-Commercial Fraud Regulations, 1431.



- [77]Article 9 of the executive regulations of the Anti-Commercial Fraud Law specified that the judicial control officer according to the samples suspected of violating the provisions of the system and its implementing regulations for examination and analysis
- [78]Article 10 of the executive regulations of the Anti-Commercial Fraud Law 1431 .
- [79]Article (9) of the executive regulations of the Anti-Commercial Fraud Law 1431.
- [80]Article (13) of the executive regulations of the Anti-Commercial Fraud Law 1431
- [81]The Principles of Criminal Investigation, by Madani Abdul Aziz Taj Al-Din, a comparative study, previous reference, p. (42).
- [82]Criminal Procedures in the Kingdom of Saudi Arabia, by Saad bin Muhammad bin Ali bin Dhafeer - Riyadh in 1427, p. (65).
- [83]Articles (33-43) of the Saudi Criminal Procedures Law of 1435.
- [84]Article (30) of the Saudi Criminal Procedures Law of 1435.
- [85]Royal Decree No issued Article 1 of the Public Prosecution System (formerly the Bureau of Investigation and Public Prosecution). M/56 dated 10/24/1409 and amended by Royal Decree No. M/125 dated 9/14/1441.
- [86]Article Four of the Public Prosecution System (Investigation and Public Prosecution Authority) by Royal Decree No. M/56 dated 10/24/1409.
- [87]Article (25) of the Saudi Criminal Procedures Law, as this article was amended by Royal Decree (M/28) dated 3/29/1443.
- [88]Article Sixteen of the Commercial Courts Law issued by Council of Ministers Resolution No. 511 dated 08/1441
- [89]Saudi Commercial Law, Muhammad Al-Hassan Al-Jabr, Riyadh, 3rd edition - 1417 / 1996, p. 20 et seq.
- [90]Article (13) of the Commercial Fraud Law issued by Royal Decree No. (M/19) dated 4/23/1429.
- [91]Criminal Protection of Consumers from Commercial Fraud in the Saudi System, Nasser Hamad Al-Saghir, Master Thesis, Naif Arab Academy for Security Sciences, 1422, p. 186.
- [92]Arresting Persons, Cases, Conditions, and Guarantees, Mahmoud Naguib Hosni, Cairo University Press - 1994
- [93]Article (107) of the Saudi Criminal Procedure Law, Royal Decree No. (M/2) dated 1/22/1435.