

Advertising in the Era of the Digital Economy in Light of the Legislation of Algeria and the European Union

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Abstract:

Electronic advertising is considered one of the most modern technologies upon which the digital economy relies, due to its crucial role in promoting products and services prominent with the aim of attracting and enticing the consumer in a digital era where there is no longer room for traditional advertising. The widespread use of electronic advertising in the virtual market, along with the Consumer's inability to physically inspect the goods or product have led to the proliferation of consumer deceiving and misleading practices in order to urge him to contract, which constitutes harm to both the consumer and the economy.

To reduce the risks of unfair electronic advertising, particularly misleading advertisements, the legislation of many countries, including Algeria and members of the European Union have focused on enacting legal frameworks to prohibit this type of advertising in order to protect the consumer and enhance transparency in the digital market.

Keywords: electronic advertising, digital economy, misleading electronic advertising, electronic commerce.

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1. INTRODUCTION

The rapid technological progress has resulted in the emergence of a virtual environment that has enabled the transfer of many activities and transactions in various sectors from the tangible realm to the virtual digital realm. It has become imperative for countries to keep pace with these developments that have brought radical changes in various fields, especially the economic sector, in which a new type of transactions has emerged, facilitating the exchange of goods and services among individuals through modern communication means.

Electronic advertising constitutes a fundamental element of the digital economy facilitating the dissemination of substantial amount of information and data about products and services, encouraging consumers to purchase and to contract. However the widespread proliferation of electronic advertising has led to a surge in unethical business practices, particularly misleading electronic advertising that harms both consumers and economy.

In order to protect consumers from the risks of misleading online advertising which often occurs remotely in a virtual environment, many legislations, such as those in Algeria and the European Union aim to establish legal frameworks regulating electronic transactions in general and online advertising in particular.

This study's subject matter is significant due to the pivotal role played by electronic advertising in the proliferation of digital commerce, as it is one of its most critical mechanisms. On the other hand, electronic advertising is a contemporary issue that concerns consumers due to the rapid and unprecedented development of modern communication technologies, which may expose consumers to risks that compromise their interests.

The study aims to highlight the most important Algerian and European Union legislations that regulate electronic advertising and enhance consumer protection against its risks in the digital environment.

Based on aforementioned, we can pose the following research question: What are the legal frameworks established by the Algerian and European Union legislations to regulate Electronic advertising?

This study employed an analytical approach, examining legal and regulatory texts on electronic advertising. A descriptive approach was also used to clarify concepts and terms, thus providing a clear understanding of the subject matter.

To give an answer to this question, we have divided the study model into two sections. In the first section, we discussed the basic concepts of electronic advertising and the digital economy, while in the second one; we discussed misleading electronic advertising as a form of deceptive electronic advertising.

2. The Basic concepts of electronic advertising and the economy digital

The rapid and significant development of modern means of communication has fundamentally reshaped the economic landscape, dismantling traditional industries and creating the digital economy, in which e-commerce plays a critical role.

Electronic advertising serves as a cornerstone of a nation's economy, acting as a tool for informing consumers about the attributes and qualities of products and services, thereby stimulating demand. In the first requirement, we will try to delve into a precise definition of electronic advertising. Subsequently, we will explore the foundational principles of the digital economy

2.1 The concept of electronic advertising

Electronic advertising is one of the advertising methods used to promote products or services and attract the largest number of consumers.

2.1.1 The legislative definition of electronic advertising

Most international and domestic legislations have differed in finding a unified concept of electronic advertising (electronic publicity). However, most agree that the difference between it and traditional advertising does not extend beyond the means used in each. Therefore, we will address the definition of electronic advertising in light of the Algerian legal system (firstly) and in light of European Union legislation (secondly).

a) Definition of electronic advertising in light of the Algerian legislation

The Algerian legislator has provided a definition of advertising in many laws and regulatory texts, despite the absence of a specific legislative text regulating this activity. One of the most important definitions addressed by the Algerian legislator is found in executive decree 90/39, which deals with fraud control and suppression, includes provisions related to advertising in article 02 paragraph 08 where advertising is defined as: “All suggestions, promotions, statements, offers, or advertisements by visual or audio-visual means¹”

As defined in Article 3, paragraph 3 of Law No. 04-02 concerning the rules applicable to commercial practices as: “Any advertisement is designed to promote the sale of goods or services whether explicitly or implicitly, regardless of the

place or means of communication used.²”

Through this definition, it is clear that the legislator did not specify a particular means of advertising. This conclusion is based on the phrase “regardless of the place or means of communication used”.

The legislator was wise to leave the field open to various means of communication that are constantly changing and expanding in line with modern technological developments. Consequently, electronic means of communication fall within the scope of this definition.

As for electronic advertising, it was defined for the first time by the Algerian legislator following the enactment of the Electronic Commerce Law No. 18-05, where the text of Article 6, paragraph 6, states: “Electronic advertising is any advertisement that aims, directly or indirectly, to promote the sale of goods or services via electronic communications³.”

It is evident from this definition that the legislator has overlooked the main objective of advertising, which is the psychological dimension of the consumers and influencing them to enter into contracts. When comparing this definition to the one found in the aforementioned Commercial Practices Law, we find that it covers the same definition but limits the means of advertising to electronic communication.

b) Definition of electronic advertising in light of European Union legislation

The European legislator stipulated, in accordance with the text of Article 2, paragraph 1, of European Directive No. 1984/450, That focused on bringing the laws, regulations and administrative practices of different member countries closer together and their private by advertising misleading, as it states: “Advertising shall mean any form of communication under taken with the goal of boosting the availability of products, services, property and business agreements, in the course of any trade, business, craft, or profession⁴.”

In the same vein, the European legislator was keen to provide a specific definition of advertising and therefore included Directive No. 2022/2065 of the European Parliament and Council adopted on 19/10/2022, and amended by Directive No. 2000/31, related to digital services, where advertising is defined in Article 3, Paragraph-R- That:

"Information aimed at promoting a message of a natural or legal person, regardless of whether it serves commercial or non-commercial purposes, and which is disseminated through an online platform in exchange for a specific fee for the dissemination of such information⁵."

As for the French legislator, he addressed the definition of electronic

advertising according to the text of Article 20 of Chapter 2 of Law No. 2004/575 related to trust in the digital economy, defining it as: “Any advertising that is accessible through a public online communication service must clearly and specifically identify its source, whether it is a natural or legal person on whose behalf the advertising is carried out⁶.”

Consequently member states’ laws must adhere strictly to EU directive standards, reflecting the principle of the supremacy in which EU directives override national laws.

At the jurisprudential level, researchers and academics have differed in finding a unified definition of electronic advertising. This is due to its connection to the development of information and communication technologies, which are in continuous the progress. Among the most important jurisprudential definitions, we mention:

Electronic advertising is defined as advertising that is disseminated through the World Wide Web with the aim of promoting a product, marketing a good or service, or advertising a website or other similar entities. Online advertising is a form of promotion that utilises the internet to deliver marketing messages aimed at attracting customers⁷.

Some define it as a means of presenting and promoting ideas, products, and service by a known entity in exchange for a fee, with the aim of attracting the largest number of consumers⁸.

Based on the previous definitions, it can be said that electronic advertising is any offer or promotion of goods or services using modern communication means.

2.1.2 Characteristics and features of electronic advertising

From the previous definitions, we can deduce that the characteristics of electronic advertising are the electronic messages sent to a large number of people containing commercial offers aimed at introducing goods and services and attracting consumers to encourage contracting. Electronic advertising is distinguished by unique characteristics compared to traditional advertising, which can be summarised as follows:

- Electronic advertising relies on electronic means that make it different from the traditional advertising. The Internet is considered the most influential and popular means at the present time⁹.
- Speed of spread, as it is possible to reach large numbers of audiences in record time,
- Providing services in various and diverse ways and forms with ease and

simplicity,

- Electronic advertising motivates consumers to contract, as the owners of goods and services seek through it to attract the consumer audience to contract and their acceptance of it. If the idea of urging the consumer to contract is not present, then we are not dealing with advertising. The goal of advertising is to create a persuasive psychological effect by emphasizing the product's benefits and user advantages¹⁰.

2.2 Digital economy basics

The rapid expansion and common utilization of digital information and communication systems has led to a change in the way of conducting economic activities. This has resulted in a new type of economy called the digital economy. Through this requirement, we will discuss the definition of the digital economy, its characteristics, and how it differs from the traditional economy.

2.2.1 Digital economy concept

The term digital economy signifies economic activities that are dependent upon digital tech. It is a very important term for countries and societies, so many opinions have differed about finding a unified definition for it. Perhaps the most prominent thing written about its meaning is the following:

The digital economy means: an economy that is mainly based on information and communication technology¹¹.

It is also known as “the practice of economic activities in the electronic field using communication technologies, information technology, and creating effective links between the parties involved in economic activity in order to improve the quality of life in all its aspects and activities¹²”.

Based on the previous definitions, it can be said that the digital economy is an economy that relies on digital technology in all its operations and is based in all its stages on the use of electronic networks and high-speed communications the exchange of goods and services.

2.2.2 Features of the digital economy

The digital economy is a sophisticated economic system founded on the extensive use of information technology and the internet in various stages of economic activity, especially in e-commerce. The salient features of this are as follows:

- It is a borderless economy and a virtual assumption, as it is widespread and not limited by geographical boundaries, and virtual work has become the norm under it¹³.

- It depends mainly on technological and information development, so it is called the network economy.

- Supply in the digital economy is characterized by abundance, while demand is characterized by scarcity despite the wide scope of demand¹⁴.
- It is a digital economy that does not require paper transactions.
- Contracting saves effort and time, and it is economical and saves a lot of expenses needed for marketing and establishing ongoing relationships between the parties to the contract,
- Flexibility and renewal, as the digital economy is characterized by being dynamic and capable of continuous renewal and development, which makes it flexible in terms of dealing with it and applying it¹⁵.

2.2.3 The distinction between the digital economy and the traditional economy

The new digital economy differs from the traditional economy in many ways including:

- The digital economy primarily relies on intellectual capital (intangibles), while the traditional economy often depends on physical labour (tangibles)."
- The digital economy is an economy of abundance where resources (knowledge) increase with use, while the traditional economy is an economy of scarcity where resources are depleted through consumption¹⁶.
- In the digital economy, time and space constraints are eliminated due to the existence of virtual institutions and markets that contribute to reducing costs and effort and increasing speed and efficiency in conducting transactions.

The digital economy relies on the networked organisational structure, utilising the Internet and communication technologies, rather than a hierarchical one. Production has become more flexible, emphasising creativity and knowledge, while competitive advantage is a fundamental factor without compromising quality.

- The traditional economy is localised and subject to the specific rules, laws, and regulations of each country, while the digital economy is global in nature, and it is difficult to apply the same regulations to it.
- The element of production in the digital economy is knowledge, while in the traditional economy it is represented by labour and capital,
- Digital economy workers rely more on codes and software than the machinery used in the traditional economy¹⁷.

3. Misleading electronic advertising as a type of dishonest electronic marketing

Today, electronic advertising has become one of the most effective tools for

marketing goods and services. Due to its rapid spread and impact on the will of the electronic consumer, the advertiser may resort to deceptive advertising, which is considered one of the most widespread forms of unfair electronic advertising. This results in risks that affect the interests of consumers¹⁸. Therefore, this research will address the concept of deceptive electronic advertising and differentiate it from similar concepts in the first part, while the second part will discuss the penalties resulting from deceptive electronic advertising.

3.1 The concept of misleading electronic advertising and its differentiation from similar concepts

Before addressing the definition of misleading electronic advertising, it is necessary to clarify that there is no difference between deceptive electronic advertising that is carried out through modern means of communication and its concept in misleading advertisements that are carried out through any other medium.

3.1.1 The legislative and jurisprudential definition of misleading electronic advertising

International legislation has not agreed on a unified definition of misleading electronic advertising due to the rapid technological development that makes it difficult to establish a comprehensive and accurate legal definition. Likewise, jurisprudential opinions have also differed in finding a unified definition for misleading electronic advertisements.

a) The legislative definition of misleading electronic advertising

By reviewing Algerian legislative texts, we find that the Algerian legislator did not explicitly address the definition of misleading electronic advertising but was content under Article 28 of Law No. 04-02, to determine the cases in which advertising is considered misleading, where it states: “Without prejudice to other applicable legislative and regulatory provisions in this field, any misleading advertising is considered illegal and prohibited, especially if:

- Includes statements, data or representations that could lead to misleading information about the definition of a product or service, its quantity, availability or features.
- Contains elements that could lead to confusion with another seller or with its products, services or activities,
- It is relating to a specific offer of goods or services, while the economic operator does not have a sufficient stock of those goods or can not guarantee the services that must normally be provided in comparison with the magnitude of the

advertising¹⁹,

These cases are examples and not exhaustive, and this is understood from the legislator's use of the phrase "especially," as there may be other cases.

Moreover, the Algerian legislator, in Electronic Commerce Law No. 18-05, did not explicitly define misleading electronic advertising, although it stipulated in the fifth paragraph of Article 30 of the same law that it must be ensured that all the conditions required to benefit from a commercial offer are not misleading or ambiguous, without going into detail about specific provisions on misleading advertising²⁰,

As for the European Union, European legislation was one of the first to define misleading advertising. According to Article 2, Paragraph 2, of Directive No. 84/450, it is defined as "any advertisement which, in any way, by whatever means, is misleading to the persons to whom it is addressed or to whom it reaches²¹."

As defined by European Directive No. 2006/114 on misleading and comparative advertising, repealing the provisions of Directive 84/450, "misleading advertising means any advertising, regardless of the means by which it is conveyed, that is likely to mislead the persons to whom it is addressed or which, by its content, is misleading and causes them detriment, thereby influencing their economic behaviour or harming a competitor²²."

In this context, the national legislation of the member states of the European Union will not deviate from the standards set by this directive, in compliance with the principle of unity, which requires the supremacy of European legislation over the national laws of each member state. In this framework, we find that the Belgian legislator has prohibited misleading advertisements under Article 4 of Law No. 2002-4135 on misleading and comparative advertising, defines it with the same definition as in the European directive referred to above²³.

Similarly, the French legislator has prohibited misleading advertising but has not provided a specific definition. Instead, he has defined the actions and behaviours that constitute misleading advertising. Article L121-2 of the Consumption Code stipulates that it is "considered a form of misleading commercial practices... when it relies on, contains false, misleading, or likely to mislead claims, representations, or offers that are likely to..."²⁴

Thus, it is evident that most of the national legislation of the European Union member states is consistent with the European Union legislation and includes misleading advertisements within the scope of unfair commercial practices.

b) The jurisprudential definition of misleading electronic advertising

Jurists have provided many definitions of misleading electronic advertising, and perhaps the most notable among these, we can mention:

Misleading electronic advertising is defined as any advertisement that influences the consumer by deleting or omitting some elements in the advertising message²⁵.

It is also defined as advertising that is likely to deceive the consumer or can lead to their deception through claims or assertions that are not false in themselves but nevertheless lead to deception.

Others have defined it as an advertisement that includes information intended to create confusion and deception regarding the essential elements or descriptions of product²⁶,

In conclusion, both legislative and jurisprudential definitions have adopted a broad concept of advertising, thus encompassing all forms of media used, whether traditional or modern, through new communication means.

This type of advertising relies on promoting products and services through deception and fraud in order to attract the electronic consumer.

3.1.2 Distinguishing misleading electronic advertising from some similar concepts

Often, the advertiser resorts to unethical methods to present their offers, similar to the concept of misleading electronic advertising, such as false electronic advertising and comparative electronic advertising, all of which fall under the category of unfair electronic advertising.

a) Distinguishing between misleading electronic advertising and false electronic advertising

False advertising is defined as any advertisement containing data, claims, or offers that are contrary to the truth and aimed at deceiving the consumer, whether it is in terms of the abundance of goods or services or other matters related to product characteristics²⁷.

From a legislative perspective, most legislations have lacked a definition of false advertising. Similar to the European and Algerian legislators, Algerian legislation has merely prohibited advertisements that are likely to confuse consumers, as affirmed by the first paragraph of Article 36 of Executive Decree No. 13/378, which sets out conditions and procedures related to consumer information, stating: “No food shall be described or presented in a manner that is false, misleading, or deceptive, or likely to create a false impression regarding its

type in a way that leads to mislead the consumer²⁸.”

With the issuance of Executive Decree No. 24-250, which defines the terms of the general regulations imposed on audiovisual communication services, we find that the Algerian legislator has clearly stipulated that the advertising message must be truthful, honest, and appropriate. To be considered as such, the advertisement must be free from false or misleading claims or offers, as stated in the fifth paragraph of Article 51 of this decree. Moreover, the Algerian legislator has also prohibited the broadcasting of false advertising, as inferred from Article 52 of the same decree, which states: “Any audiovisual communication service and/or audiovisual communication service via the Internet is obligated to refrain from broadcasting false, comparative, or covert advertising²⁹.”

As for European legislation, while it does not explicitly define false advertising, it clearly states in Article 6, paragraph 1 of Directive No. 2005/29/EU concerning unfair commercial practices, that “A commercial practice shall be regarded as misleading if it contains false information and therefore is not true, or if it deceives or is likely to deceive the consumer...”³⁰

While many jurists use the terms “misleading advertising” and “false advertising” interchangeably, this is not entirely accurate. Even though they may lead to the same outcome. The fundamental difference between them lies in degree rather than in nature. False advertising involves information that is contrary to the truth, false, and incorrect. On the other hand, misleading advertising involves statement information that misleads the consumer and influences their will; Therefore, false advertising indicates a contradiction between the claim and the truth, while misleading advertising includes a contradiction between the belief and the truth³¹.

b) Differentiating between misleading electronic advertising and comparative electronic advertising

Electronic deception in advertising is not limited to consumers alone but has also extended to include competitors, which is what is called comparative advertising. This is considered one of the most controversial types of advertising and has a significant impact on consumers will, and it also raises a lot of conflict about its legitimacy.

Comparative advertising is defined as the advertisement that is based on comparing different competing brands based on their features or price, and it also identifies the competitor’s brand by name, illustration, or other information³².

As for the legislative aspect, the Algerian legislator has not defined

comparative advertising explicitly and has merely referred to it in Law No. 04-02 relating to the rules applicable to commercial practices. Article 26 of this law prohibits all unfair commercial practices that violate honest commercial practices and by which an economic operator infringes upon the interests of one or more economic operators³³, additionally, Article 27 of this law addresses certain acts and practices that fall within the scope of comparative advertising, stating, “ Shall be considered Unfair commercial practices are considered within the meaning of the provisions of this law, in particular, the practices carried out by an economic operator, which consist of following:

- Defaming a competing economic operator by disseminating false information that harms their reputation, products, or services.
- Imitation of the distinctive marks of a competing economic operator, imitation of their products or services, or advertising that is intended to attract the competitor's customers by sowing doubt and illusions in the consumer's mind...³⁴”.

Through the text of this article, it is clear that the Algerian legislator has addressed unfair acts and practices by way of non-exhaustive examples. This can be inferred from the use of the term "especially". Consequently, there may be other practices that fall within the scope of comparative advertising.

While Law No. 18-05 concerning e-commerce did not make any reference to comparative advertising, the Algerian legislator, through the issuance of Executive Decree No. 24-250 defining the terms and conditions of the general regulations imposed on communication services, addressed this issue and explicitly mentioned comparative advertising. Article 52 of this decree stipulates that all audio-visual communication services and/or audio-visual communication services via the Internet are prohibited from broadcasting comparative advertising³⁵.

As for European legislation, Directive No. 84/450/EC was amended by Directive 97/55/EC to include comparative advertising within its scope. Subsequently, Directive No. 2006/114/EC concerning misleading and comparative advertising was issued, which provided a definition of comparative advertising in Article 2, paragraph -C-, defining it as “an advertisement that explicitly or implicitly limits a competitor or the goods or services provided by the competitor³⁶”. What can be observed from the text of this article is that the European Directive has expanded the concept of comparative advertising so that it may refer to a competitor or its products. In this regard, it should be noted that comparisons that may be based on subjective elements that are difficult to assess, such as taste, should be excluded, in addition to excluding comparisons that are

based on expressing personal opinions or individual or collective assessments³⁷.

While some legislation, such as the United States of America, allows comparative advertising, European legislation considers it permissible, but subject to specific conditions and restrictions, which are set in Article 4 of Directive No. 2006/114/EC. Among these conditions, we can mention:

- The advertisement should not be misleading.
- To be a comparison between goods or services that meet the same needs or have the same purpose.
- The comparison should be objective and based on one or more essential, observable characteristics, and the price can also be included as part of the comparison.
- Does it not lead to tarnishing the reputation of trademarks, trade names, or any other distinctive mark, or of goods, services, activities, or the position of a competitor³⁸.
- Does it not unfairly exploit the bad reputation associated with a competitor's trademark, trade name, or other distinctive marks or the designation of origin of competing products.

Therefore, if all of these conditions are met in comparative advertising, regardless of the means used in advertising, whether traditional or electronic, it is considered legitimate. If one or more conditions are not met, the comparative advertising is considered unfair.

3.2 Criminal sanctions for misleading electronic advertising

In an effort to bolster consumer protection in contractual relationships and safeguard against unfair commercial practices, the suppression of misleading advertising has become a cornerstone of numerous modern legal frameworks, including Algerian and European Union legislation. The sanctions levied for such advertising practices exhibit variability across jurisdictions, contingent upon the specific domestic laws of each nation.

3.2.1 Criminal sanctions under the Algerian legislation

The Algerian legislation does not have a specific law dedicated solely to regulating electronic advertising, including misleading electronic advertising; it has introduced penalties for misleading advertising within various legal texts. Based on Law No. 04-02 relating to the rules applicable to commercial practices, the legislator has classified misleading advertising as an unfair commercial. The law imposes a financial penalty ranging from fifty thousand Algerian dinars (50,000) DZD to five million Algerian dinars (5,000,000) DZD³⁹. Furthermore,

the law allows for the seizure of goods, equipment, and supplies used in committing such a crime⁴⁰.

Additionally, the regionally competent governor (wali) may order the closure of the commercial establishment for a maximum period of sixty (60) days, upon a closure proposal submitted by the provincial director in charge of trade⁴¹.

Referring back to the aforementioned Electronic Commerce Law No. 18-05, we find that it specifies the penalties for the crime of misleading electronic advertising in Article 40. This article imposes a financial penalty ranging from five thousand Algerian dinars (50,000) DZD to five million Algerian dinars (5,000,000) DZD, without prejudice to the victims' rights to compensation. Moreover, The fine can be doubled in case of repeat offense within a period not exceeding twelve (12) months from the date of the previous penalty⁴², The legislator has permitted the proposal of a settlement fine for offenders, which is the minimum fine, which is (50,000) DZD, and the settlement fine cannot be applied in the case of recidivism⁴³.

While legal persons committing the crime of misleading electronic advertising are subject to fines ranging from one to five times the maximum fine imposed on a natural person. This is stipulated in Article 18 bis of the Algerian Penal Code⁴⁴.

3.2.2 Criminal sanctions under the European legislation

As for European Union legislation, it has issued numerous regulations prohibiting all forms of unfair commercial practices, including misleading electronic advertising. The latest of these Regulations No. 2022/2065 on Digital Services (DSA), which imposes strict requirements on online platforms to protect users from illegal content and misleading advertisements, although many member states have adapted their national legislation to align with the EU legislation, the details of implementation and penalties applied to the crime of misleading electronic advertising may vary from one member state to another. Among the most important national laws punishing this crime, we find.

a) In French legislation

While French legislation does not regulate misleading advertising through a specific law, as is the case in many other member states. However, this has not prevented it from having some of the strictest criminal penalties for misleading electronic advertising. Under Article L132-2 of the Consumer Code, amended on May 10, 2024, by Law No. 2024-420⁴⁵. The legislator has imposed a penalty of two years' imprisonment and a fine of 300,000 Euros. Moreover, and according to

the same law, the fine can be increased proportionally to the benefits derived from the advertising, up to 10% of the average annual turnover calculated based on the sales of the last three years following the commission of the offence, or 50% of the expenses incurred in producing the advertisement. When the offence is committed using a public communication service via the internet or digital or electronic media, the penalty is increased to five years' imprisonment and a fine of 750,000 Euros⁴⁶.

It is understood from the text of this article that the penalties imposed for misleading electronic advertising differ from those imposed for traditional misleading advertising. The French legislator has enacted stricter penalties for the crime of misleading electronic advertising, which is committed via the internet or other digital or electronic means.

b) In Belgian legislation

The Belgian legislator has specifically regulated unfair advertising. Misleading advertising is considered a crime under Article 25 of Law 02 August 2022 concerning misleading advertising and comparative advertising. The penalty for this offence is a fine ranging from 250 Euros to 10,000 Euros⁴⁷.

The fine may be doubled in case of recidivism within five years from the date of the final judgment for the same crime. This is stated in Article 26, paragraph two, of the same law⁴⁸.

c) In German legislation

Germany possesses an arsenal of laws that protect consumers from the risks of the digital economy and ensure fair competition in the market. Among the most important of these laws is the Act against Unfair Competition (UWG), which prohibits all types of unfair commercial practices, including misleading electronic advertising. As per Article 16 of this law, penalties for those who display misleading advertisements can reach up to two years imprisonment or a fine whose amount is determined based on the severity of the crime⁴⁹.

Consequently, we find that the legislation of EU member states is aligned and integrated with European directives and regulations that prohibit misleading electronic advertising, with slight variations in penalties among these member states.

4. CONCLUSION

Electronic advertising has become a fundamental tool in supporting and developing the digital economy amid rapid technological advancement and the

widespread proliferation of the information network. It allows advertisers to reach a wider audience more quickly and effectively compared to traditional advertising. Many countries are striving to enhance and adapt their laws to keep align with the changes occurring in the era of digital transactions, which may pose risks to the electronic consumer. Through this study, we have arrived at the following conclusions:

- Electronic advertising is still governed by the same rules that govern traditional advertising.
- The absence of a specific law governing electronic advertising in particular and traditional advertising in general at the level of Algerian legislation.
- The weakness of the technological infrastructure in Algeria is one of the reasons that has led to the delay in regulating e-commerce.
- Keeping European legislation in line with rapid developments in the field of digital commerce and continuously adapting its legislation to keep pace with this development, protecting the consumer from the risks of unfair commercial practices, especially misleading advertising.

Finally, the following suggestions can be proposed:

- The necessity for the Algerian legislator to enact a specific law regulating advertising in general and electronic advertising in particular.
- Leveraging the European Union's expertise in digital commerce legislation.
- Implementing stricter penalties for the offence of misleading online advertising, commensurate with the gravity of such acts, as is common practice in numerous European Union member states.
- Implementing measures to enhance the protection of electronic consumers from unfair advertising by aligning Algerian laws with the growing prevalence of electronic transactions.
- Raising consumer awareness of the risks of misleading electronic advertising and ways to protect against it.

5. Endnotes

¹Article 2, paragraph 8 of Executive Decree No. 90-39 relating to quality control and the suppression of fraud, published in the Algerian Official Journal, No. 5, dated January 31, 1990.

² Article 3, Paragraph 3 of Law No. 04-02 defining the rules applicable to commercial practices, as amended and supplemented, published in the Algerian Official Journal, No. 41, dated June 30, 2004.

³ Article 6, Paragraph 6 of Law No. 18-05 on e-commerce, dated May 05, 2018, published in the Algerian Official Journal, No. 28, dated May 16, 2018.

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¹⁵Muhammad Saeed Muhammad Al-Baghdadi, Op.cit. p. 172.

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