

THE APPLICATION OF OPTIONS IN ELECTRONIC SALE

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Abstract:

Following the introduction of the electronic sale, the present research provides a comparison between traditional and electronic options of cancelation at the domestic and international levels; since such sale is concluded in a virtual context, the way these options are electronically provided and achieved can be different from traditional ways, though some of them only vary in format and this would not contribute to the application of options and general judgments thereof, such as the option of loss. In other options, however, such as that of the meeting, the conclusion of this type of sale has significantly affected the realization or the possibility thereof. Furthermore, Article 37 of the Electronic Commercial Code sets forth the right of withdrawal not less than 7 days for the consumer which can be deemed as a new option in the electronic field. Islamic and Iranian law, however, is not familiar with such entity and therefore specific judgments thereof have been described.

Keywords: electronics sale, traditional options, the right of withdrawal, online stores

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Introduction

It can be define as electronic selling to contract of buy and sell that all or part of it by communication networks computer and has been concluded new electronic things like telephone and.....

Nowadays electronic buy and sell are the important part of new trade that by the parties concluded in different models. The important forms of this contract are merchant transaction with merchant and merchant with consumer. The important part has doubt is break up the contract. In this research it can be check that option in electronic selling but at first in this research about what is electronic selling ?and investigate about coagulation that by the use of coagulation we squabble about break up.

Traditional options and how apply them

The discussion about contracts electronic options specially in electronic option is the most important subject that any body don't search about it and some juristic believe that some electronic options in trade are ineffective but when talk about electronic region there is no range and nowadays internet has been increased in all context specially electronic buys and sell , man kinds demands about termination and about jurisprudence and modernization buy and sell, it needs search and compare in all rules and sentences about it, in this research we check one rules about electronic selling and termination can on and condition and how it can be apply.

1.Option of meeting place

Option of meeting place it's kind of option that is particular of selling that the parties or one of them have right of termination. Due to this option every dealers in the meeting so long as don't dispersed they have right for termination but in civil law don't present this thing. It sound that legislator accept the mind of custom.

2.Option of animal

Option of animal it's a kind of option that coordinate of selling. Due to animal has defect that you cannot recognition and it's difficult for normal people identification healthy animal civil law say buyer can termination during 3 days.

Option of condition

Option of condition has specific feature that the parties make it and this option liaise to real compromise and when it makes that parties make decision about it.

Option of delayed payment of the price

Option of delayed payment of the price it's a kind of option that coordinate of selling. Legislator of Iran don't define this option but he finished substantiation terms but by the use of article 402 we can say vender can termination while installation don't submission and no mistake during 3 days.

Option of incorrect description

One of the things that the parties can termination the transaction is this option is: this option is due to observation of installation unlike installation that has been before. Whereas seeing thing is important and the parties by the use of this fundamental device can notify about transaction and this acquaintance impart explicit compromise between parties.

Option of defect

This option it's a kind of option in the civil that by the use of this option providing defective of in dispute buyer can baffle the transaction.

Option of sales unfulfilled in part.

This option means when parties were consent about transaction use this option.

Option of unfulfilled conditions.

This option is the parties stipulate bet in connotative transaction and one of them don't fulfilled the condition in that case seller can termination the transaction.

The last option is: If vender in the meeting cannot submission the contract is abrogate and as well as convener can termination the transaction when powerlessness guarantor complaint after contract.

Option in electronic law merchant

Most of the law systems in the world in electronic contract use (function of European federation in electronic contract in 1997) consumer has right of dissuasion during 7 days. Article 37 electronic law merchant.

By the article 6 this approved has mentioned special option (right of dissuasion) and this option has been accepted in electronic law merchant. Islamic law and Iranian civil law don't acquaintance with this especial subject we research about some rules:

1. Initiatory allocation sentence that deduction of electronic law merchant is an important subject in electronic contract.
2. According as has been mentioned in article 37 right of dissuasion use in every contract except immovable contract.
3. This option specialty for remote contract our intention is contract by electronic thing like internet, computer, telephone and sending message.
4. Duration in this option is 7 days according to article 37 so the parties cannot coalescence less than 7 days because of law is imperative.
5. According to article 38 apply of this option circumstantially sell of thing of the date of the coalescence contract.
6. This option is not for contract rather is for transaction.
7. According to articles 45 and 46 the parties cannot agreement unlike this option.
8. According article 42 we cannot apply this option in some condition and this option is exception towards some goods.
9. The ninth of this case is that If the subject is break down in transaction as some part of transaction substantiation with other means. In that case this option break down towards both of them. According to article 47. This option only circulation in electronic method. For other part don't use this method.
10. According article 37 this option don't fetch up unlike some options producer and seller cannot want allege for dissuasion of this option. If seller wants allege of buyer for refunding buyer isn't convinced for present it.

11. This option is for consumer.

12. The twelfth case is related to the rules of this option due to this option is unlike other options in civil law , and Islamic rules and the aim of this option : A. preservation and public consideration in electronic transaction through assurance for consumer. B. Control of damage to consumer.

Ensample of international internet shops.

Ebay it's a kind of trade electronic company client to client, there is man trade in the internet and classification between seller and buyer that seller can give the list of item to buyer and buyer can price on the goods and other client can find their items. In the diplomacy of company regarding with reclamation of good and termination for it you have 14v days for refunding defect items.

The approach of analysis and research of data.

The method of study in this research is resolution experiment and for resolution of data use the different website.

Conclusion

The conclusion of this research is that :

1.The aim of electronic law merchant of Iran is coordinate between the problem of electronic trade in the lawful and international like most of the law systems that adherence of European instruction

2.This option give especial right to consumer that consumer can use the right of termination during 7 days by the use of European construction in 1997, as it mentioned that Ebay company the right of termination during 14 days , Amazon 30 days and 5040 for Iran that is one month. It shows that we follow this framework.

3. In the electronic law merchant of Iran this option compute when seller deliver good.

4.According to article 30 after an accurate contract that is according a public rules and all option it can be use in civil law but according to new option.

5. In option of meeting place attorneys have different to option that most of them believe that this option is ineffective.

6. Some attorneys believe that the right of dissuasion is option of condition. If we believe that this right option of condition we should all the rules about this option. We can junk all options and the option of condition is agreement between the parties but the right of dissuasion is law and we cannot junk it.

7. In the international selling convention in 1980 of vain. The option of defect, option of fraud, option of sales unfulfilled in part, option of delayed payment of the price, option of condition, option of incorrect description and option of description in French.

8. In civil law of Iran there is no time for this option.

9. It's better at the beginning of this option in electronic selling should be when we deliver the good not in the time of contract.

Resource

Law

The Iranian civil Law

Electronic Commerce Law of 1382

Consumer Rights Protection Law of 1388

1980 Vienna Convention on the International Sale

UNCITRAL Model Law

European Directive 97/7 / EEC, adopted on 20 May 1997 on consumer protection in contracts at a distance (distance)

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