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Enhancing consumer protection mechanisms in electronic contracts: challenges and prospects for improving the legislation of the republic of Uzbekistan

Farida Allambergenova,
PhD candidate at the Training Institute for lawyers under the Ministry of Justice of the Republic of Uzbekistan
Lawyer
e-mail: faridaallambergenova98@gmail.com

Аннотация. Ushbu maqolada O‘zbekiston Respublikasida elektron tijoratni tartibga soluvchi amaldagi huquqiy asoslar ko‘rib chiqilib, elektron shartnomalarda iste’molchilarni himoya qilish mexanizmlarini takomillashtirishga alohida e’tibor qaratilgan. Unda "Elektron tijorat to‘g‘risida"gi qonundagi konseptual bo‘shliqlar, xususan, elektron tijorat shartnomalari va foydalanuvchi kelishuvlari uchun aniq qonuniy ta’riflarning yo‘qligi, shuningdek, noaniq shartlar va adolatsiz standart bandlardan yetarli darajada himoyalanmaganligi aniqlangan. Yevropa Ittifoqi, AQSH, Germaniya, Janubiy Koreya va Buyuk Britaniyaning qiyosiy huquqiy tahliliga asoslanib, tadqiqot elektron tijorat ta’rifini barcha raqamli tijorat o‘zaro ta’sirlarini o‘z ichiga olgan holda kengaytirishni va elektron tijorat shartnomalari va foydalanuvchi kelishuvlarining aniq qonuniy tushunchalarini joriy etishni taklif qiladi. Islohotlarni asoslashda taniqli huquqshunos olimlar, jumladan, Rid, Uinn, Kessler, Radinning nazariy asoslaridan foydalaniladi.

Калит сўзлар. электрон тижорат; истеъмолчилар ҳуқуқларини ҳимоя қилиш; электрон шартнома; фойдаланувчи билан келишув; рақамли платформалар; Ўзбекистон; қиёсий ҳуқуқ; стандарт шаклдаги шартномалар; онлайн бозорлар

Аннотация. В данной статье рассматривается действующая правовая база, регулирующая электронную коммерцию в Республике Узбекистан, с акцентом на совершенствование механизмов защиты прав потребителей в электронных контрактах. В нем выявлены концептуальные пробелы в Законе "Об электронной коммерции," в частности, отсутствие четких законодательных определений для договоров электронной коммерции и пользовательских соглашений, а также недостаточные гарантии от неоднозначных условий и несправедливых стандартных положений. Основываясь на сравнительно-правовом анализе Европейского Союза, Соединенных Штатов, Германии, Южной Кореи и Соединенного Королевства, исследование предлагает расширить определение электронной коммерции, включая все цифровые коммерческие взаимодействия, и ввести четкие юридические понятия договоров электронной коммерции и пользовательских соглашений. Для

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обоснования этих реформ используются теоретические основы выдающихся ученых-правоведов, в том числе Рида, Уинна, Кесслера и Радина.

Ключевые слова. электронная коммерция; защита прав потребителей; электронный контракт; пользовательское соглашение; цифровые платформы; Узбекистан; сравнительное право; стандартные контракты; онлайн-маркетплейсы

Annotation. This article examines the current legal framework governing electronic commerce in the Republic of Uzbekistan, with a focus on enhancing consumer protection mechanisms in electronic contracts. It identifies conceptual gaps in the Law "On Electronic Commerce," particularly the absence of clear statutory definitions for electronic commerce contracts and user agreements, as well as insufficient safeguards against ambiguous terms and unfair standard clauses. Drawing on comparative legal analysis from the European Union, the United States, Germany, South Korea, and the United Kingdom, the study proposes broadening the definition of electronic commerce to include all digital commercial interactions, and introducing explicit statutory notions of electronic commerce contracts and user agreements. Theoretical foundations from prominent legal scholars, including Reed, Winn, Kessler, and Radin, are used to justify these reforms. The article concludes that these legislative amendments would strengthen legal certainty, promote fairness, and improve consumer protection in Uzbekistan's digital economy.

Keywords. electronic commerce; consumer protection; electronic contract; user agreement; digital platforms; Uzbekistan; comparative law; standard-form contracts; online marketplaces

The rapid development of electronic commerce has fundamentally transformed contractual relations between business entities and consumers. Digital platforms, online marketplaces, mobile applications, and various information systems have become the primary means through which goods, services, and digital content are offered and acquired. As a result, electronic contracts have emerged as the dominant legal instrument governing contemporary commercial transactions. While this transformation has increased market accessibility, convenience, and economic efficiency, it has simultaneously generated new legal risks for consumers, particularly in relation to the transparency of contractual terms, the imbalance of bargaining power, and the protection of legitimate consumer interests in the digital environment.

In Uzbekistan, the legal framework regulating electronic commerce is primarily based on the Law "On Electronic Commerce" and related legislative acts. Although the existing regulatory regime establishes the general legal validity of electronic contracts and recognizes electronic transactions as legally binding,

a number of conceptual and practical shortcomings remain. In particular, current legislation does not sufficiently define the legal nature and content of electronic commerce contracts and user agreements concluded through digital platforms, nor does it provide adequate safeguards for consumers against ambiguous contractual terms, unfair standard clauses, or unilateral modifications imposed by electronic commerce operators. This regulatory gap weakens the position of consumers and creates legal uncertainty in dispute resolution practice.

The absence of precise legislative definitions and detailed procedural requirements for the formation and content of electronic contracts and user agreements is especially problematic in the context of standard-form contracts (click-wrap and browse-wrap agreements), where consumers typically have no real opportunity to negotiate contractual terms. Moreover, the lack of a clear interpretative rule favoring consumers in cases of ambiguous or unclear contractual provisions undermines the principle of fairness in electronic commerce relations and contradicts the general objectives of consumer protection law.

The current wording of Article 3 of the Law of the Republic of Uzbekistan “On Electronic Commerce” defines electronic commerce as the sale and purchase of goods (works, services) carried out within the framework of entrepreneurial activity on the basis of contracts concluded through electronic trading platforms using information systems[1]. This definition, while reflecting one of the most common forms of digital trade, adopts an unduly narrow conceptual approach to electronic commerce by limiting it to transactions conducted exclusively through electronic marketplaces.

Such a restrictive interpretation does not fully correspond to the actual dynamics of contemporary digital trade. In practice, a significant proportion of electronic commerce transactions are carried out not only via electronic trading platforms, but also through official corporate websites, mobile applications, social media pages, and other digital channels operated directly by business entities. Consequently, commercial relations arising from contracts concluded through these channels risk falling outside the legal scope of “electronic commerce” as currently defined by national legislation. This, in turn, creates legal uncertainty with regard to the applicability of special legal regimes governing electronic contracts, consumer protection guarantees, and evidentiary standards in disputes arising from such transactions.

From the perspective of consumer protection in electronic contracts, this conceptual limitation is particularly problematic. The formal exclusion of certain digital transactions from the scope of electronic commerce law weakens the legal position of consumers who conclude contracts through alternative digital interfaces. In the absence of a clear and comprehensive statutory definition, business entities may attempt to avoid the application of consumer

protection norms by structuring transactions outside formally recognized electronic marketplaces, thereby undermining the objectives of fairness, transparency, and legal certainty in electronic commerce relations.

Comparative legal analysis demonstrates that foreign jurisdictions adopt a broader and more technologically neutral understanding of electronic commerce. In particular, Article 2 of Directive 2000/31/EC of the European Parliament and of the Council on electronic commerce defines “information society services” as any service normally provided for remuneration, at a distance, by electronic means, and at the individual request of a recipient of services[2]. This formulation deliberately avoids limiting electronic commerce to specific platforms or technical infrastructures and instead focuses on the functional characteristics of digital service provision. Similarly, Article 2 of the Act on the Consumer Protection in Electronic Commerce of the Republic of Korea defines electronic commerce as entrepreneurial activities conducted through the exchange of goods or services by means of electronic documents[3]. This approach encompasses all forms of digital commercial interaction irrespective of the particular technological channel used.

In light of the above, it is proposed to revise the definition of electronic commerce in Article 3 of the Law “On Electronic Commerce” by replacing the current platform-centered formulation with a broader and more inclusive definition, according to which electronic commerce shall be understood as activities involving the offering of goods, services, or digital products, the conclusion of contracts, and their performance, carried out wholly or partially through information and communication technologies. Such a reformulation would reflect the technological neutrality principle, ensure the uniform application of consumer protection mechanisms across diverse digital environments, and eliminate unjustified regulatory gaps between different forms of electronic contracting. Moreover, expanding the scope of the legal definition would strengthen the protection of consumers’ rights in electronic contracts by clearly subjecting all digital commercial transactions to the special safeguards established by electronic commerce legislation.

The current Law of the Republic of Uzbekistan “On Electronic Commerce” establishes a number of basic legal concepts governing electronic trade; however, it does not contain a clear and independent definition of an electronic commerce contract. In practice, legal relations arising in the digital environment are predominantly formed through contracts concluded via websites, mobile applications, online platforms and marketplaces. These contracts determine the scope of rights and obligations of sellers, buyers and platform operators, regulate liability issues and serve as the main legal basis for dispute resolution. The absence of a statutory definition of an electronic commerce contract leads to

legal uncertainty, particularly when determining the legal nature of digital transactions, their evidentiary value and the applicability of general civil law rules to relations formed in the online environment. In this regard, it is proposed to introduce into Article 3 of the Law the concept of an electronic commerce contract as an agreement concluded between participants of electronic commerce, including sellers, buyers and electronic commerce operators, which establishes, modifies or terminates their civil rights and obligations through electronic means.

Such an approach is consistent with international and comparative legal standards. In the legal framework of the European Union, the validity of contracts concluded by electronic means is explicitly recognized. Article 9 of Directive 2000/31/EC obliges Member States to ensure that their legal systems allow contracts to be concluded electronically, thereby confirming that electronic contracts are not merely a technical form of agreement but a fully legitimate legal instrument capable of producing binding legal effects[4]. This provision is complemented by the obligation to provide clear pre-contractual information, which strengthens legal certainty and transparency in electronic transactions. Similarly, German civil legislation treats contracts concluded by electronic means as a special category of consumer contracts. Section 312i of the German Civil Code imposes specific duties on entrepreneurs when concluding contracts in electronic commerce, including the obligation to ensure that the consumer explicitly confirms the order before the contract is deemed concluded[5]. This model demonstrates that electronic commerce contracts are recognized as an independent legal phenomenon requiring additional safeguards, particularly in relations involving consumers.

Alongside the concept of an electronic commerce contract, the absence of a statutory definition of a user agreement also constitutes a significant gap in the legal regulation of digital relations in Uzbekistan. In modern electronic commerce, access to platforms, digital services and online content is primarily governed by user agreements, also known as terms of service or terms of use. These agreements establish the rules of conduct for users, define the rights and obligations of the platform owner and users, regulate the use of digital content and determine liability for violations. Despite their practical significance, user agreements currently remain outside the conceptual framework of the Law on Electronic Commerce, which weakens the legal protection of users and complicates the qualification of disputes arising from the use of digital platforms. Therefore, it is proposed to introduce into Article 3 of the Law the concept of a user agreement as an agreement determining the rules for using a particular website, application or software and establishing the rights and obligations of both the resource owner and users, as well as the conditions for accessing services and digital content.

Comparative legal analysis demonstrates that user agreements are widely recognized as legally binding contracts in foreign jurisdictions. In the United States, electronic agreements, including user agreements concluded online, are granted full legal effect under the Uniform Electronic Transactions Act, which provides that electronic records and signatures may not be denied legal validity solely because of their electronic form[6]. Judicial practice further confirms the binding nature of user agreements, provided that users are given reasonable notice of the terms and manifest their consent to them, as illustrated by the decision in *Specht v Netscape Communications Corp*.[5] In a similar vein, United Kingdom law recognizes user agreements within the framework of electronic commerce and consumer protection regulation. The Electronic Commerce (EC Directive) Regulations 2002 require service providers to make contractual terms available to users in a clear and accessible manner prior to the conclusion of an agreement, while the Consumer Rights Act 2015 establishes the general requirement of fairness and transparency of contractual terms in relations with consumers[7]. These approaches demonstrate that user agreements are treated as independent contractual instruments forming the legal basis of relations between digital platforms and users.

Taken together, the introduction of the concepts of an electronic commerce contract and a user agreement into the Law of the Republic of Uzbekistan “On Electronic Commerce” would contribute to eliminating legal uncertainty in the regulation of digital transactions and strengthening the protection of participants in electronic commerce. By aligning national legislation with widely recognized international standards and comparative legal models, it becomes possible to ensure a higher level of legal certainty, improve the evidentiary framework for electronic transactions and enhance the overall effectiveness of legal regulation in the digital economy.

Building upon the comparative legal analysis above, the proposed introduction of the concepts of an electronic commerce contract and a user agreement into the Law of the Republic of Uzbekistan “On Electronic Commerce” may also be substantiated on solid theoretical grounds developed in contemporary legal scholarship. Legal doctrine increasingly recognizes that digital transactions are not merely a technical variation of traditional contracts but constitute a distinct regulatory environment that requires conceptual clarification at the level of statutory definitions. Without such clarification, courts and enforcement bodies are compelled to rely on fragmented analogies to traditional contract law, which often proves insufficient for resolving disputes arising in platform-based and algorithm-mediated transactions.

In legal theory, the contractual nature of online transactions has been widely acknowledged. Chris Reed, one of the leading scholars in the field of electronic commerce law, argues that electronic

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contracting creates a specific legal environment in which traditional doctrines of offer and acceptance must be adapted to account for automated systems, user interfaces and digital confirmation mechanisms. Reed emphasizes that legal certainty in electronic commerce depends on the clear recognition of electronically concluded agreements as полноценные civil contracts capable of generating binding rights and obligations[8]. This doctrinal position supports the proposal to introduce an explicit statutory definition of an electronic commerce contract, as it allows the legislature to recognize the autonomy of digital contracting mechanisms while maintaining continuity with general principles of contract law.

A similar position is articulated by Jane K. Winn, who notes that electronic commerce has transformed the architecture of contracting by shifting a significant part of transactional decision-making into digital environments designed and controlled by platform operators. Winn underlines that electronic contracts, especially those concluded through online interfaces, raise specific issues of consent, disclosure and fairness that cannot be adequately addressed without acknowledging their special legal nature[9]. From this perspective, the formal recognition of an electronic commerce contract at the level of statutory definitions serves not only a technical function but also a protective one, as it enables the legislature to tailor specific safeguards for participants in digital markets, particularly consumers and small businesses.

The need to introduce the concept of a user agreement is likewise supported by well-established doctrinal approaches in contract theory and digital law. Friedrich Kessler’s classic theory of contracts of adhesion remains highly relevant in the context of platform-based user agreements, which are typically presented to users on a take-it-or-leave-it basis. Kessler demonstrated that such standard-form contracts fundamentally alter the balance of contractual freedom by shifting normative power to the drafting party, thereby justifying enhanced legal scrutiny and regulatory intervention[10]. In the digital environment, user agreements function as contracts of adhesion par excellence, as users have little or no opportunity to negotiate their terms, while these agreements govern access to essential digital services and marketplaces. The explicit statutory recognition of user agreements therefore creates a doctrinal basis for applying principles of fairness, transparency and substantive control to such contracts.

Contemporary scholarship further reinforces this approach. Margaret Jane Radin has persuasively argued that boilerplate contracts in the digital economy, including terms of service and end-user agreements, often erode meaningful consent and may undermine fundamental rights if left outside the scope of effective legal regulation. Radin’s analysis demonstrates that the formal recognition of user agreements as legally significant contracts is a prerequisite for subjecting them to judicial and legislative control

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aimed at preventing abuse and protecting weaker parties[11]. This theoretical framework provides strong justification for incorporating the concept of a user agreement into the system of statutory definitions in electronic commerce legislation, as it allows courts and regulators to explicitly address issues of fairness, transparency and proportionality in platform-user relations.

Taken together, the views of Reed and Winn regarding the specific legal nature of electronic contracts, combined with the doctrinal insights of Kessler and Radin on standard-form and boilerplate agreements, form a coherent theoretical foundation for the proposed legislative amendments. These scholarly positions demonstrate that digital contracting practices generate new structural imbalances and legal risks that cannot be effectively managed without conceptual recognition at the level of statutory terminology. Consequently, the inclusion of the notions of an electronic commerce contract and a user agreement in the Law of the Republic of Uzbekistan "On Electronic Commerce" is not merely a technical refinement but a theoretically grounded step towards modernizing national legislation in line with the realities of the digital economy and the dominant trends of contemporary legal thought.

In conclusion, the development of electronic commerce in Uzbekistan necessitates a systematic modernization of the legal framework governing electronic contracts and consumer protection in the digital environment. The current regulatory model, while recognizing the general legal validity of electronic transactions, remains conceptually limited and insufficiently responsive to the realities of platform-based contracting and standard-form user agreements. The proposed expansion of the definition of electronic commerce, together with the introduction of clear statutory notions of an electronic commerce contract and a user agreement, is theoretically justified and supported by comparative legal experience and established legal doctrine. Such reforms would enhance legal certainty, prevent regulatory avoidance by digital market actors, and strengthen consumer protection against unfair contractual practices, ambiguous terms and structural imbalances of bargaining power. Ultimately, aligning national legislation with technologically neutral principles and contemporary scholarly approaches would contribute to the formation of a more coherent, transparent and consumer-oriented legal framework for electronic commerce in the Republic of Uzbekistan.

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