# The principle of transparency of business practices under Law N°: 04-02

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**Summary:**

In order to protect the economic interests of the consumer, the Algerian legislator stipulated under Law N°:04-02 specifying the amended and supplemented rules of commercial practices and its regulatory texts on the necessity of the economic aid's commitment to implement the principle of transparency of commercial practices, which is represented in the commitment of the economic aid to informing about prices, tariffs and terms of sale, and the obligation to deal with the invoice In order to detect a violation of this principle, qualified agents are entitled according to Law No. 02-04 to control operations, and to verify the extent to which the economic aid is committed to applying the provisions of transparency stipulated in the Commercial Practices Law, Such as detention, administrative closure, confiscation, and prohibition from practicing the activity for a certain period.

**Keywords**: consumer, economic aid, transparency, original penalties, complementary penalties.
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**Introduction:** The Algerian legislator imposed a number of legal conditions in the practice of commercial activity that must be respected by the economic aid, which includes respecting and applying the transparency of commercial practices stipulated in Chapter Two of the Commercial Practices Law N°: 04-02, amended and supplemented, which is mainly represented in the necessity of informing the consumer about prices and tariffs. So that the purchasing decision is made with awareness and sound will, far from any propaganda or pressure, in addition to the obligation to deal with the invoice or a document that replaces it.

This study aims to introduce the basic concepts included in the principle of transparency of commercial practices, which are represented in informing of prices and tariffs, dealing with the invoice or its substitute, and the penalties applied in the event of violating them.

The importance of the study is highlighted in informing the consumer and revealing the legal means that protect his economic interests before contracting, which is represented by informing of prices and tariffs, in addition to protecting his economic interests after contracting through dealing with the invoice.

To address this issue, we proposed the following problem: How did the Algerian legislator organize the mandatory application of the principle of commitment to inform about prices and tariffs and dealing with invoices under Law N$^0$: 04-02, amended and supplemented?

To solve this problem, we relied on the analytical approach through our analysis of the legal texts related to this topic.

**First: Commitment to informing the media about prices and tariffs**

Article 04 of Law N°: 04-02 specifying the rules applicable to commercial practices, amended and supplemented above, stipulates: "The seller must obligatorily inform customers of the prices and tariffs of goods and services, and the conditions of sale." From the text of the article, the Algerian legislator imposed on the seller the necessity of adhering to informing the consumer. The prices and tariffs of goods and services and the terms of sale, while dealing with customers. If we look closely at the text of the article, we notice that the Algerian legislator did not use the term economic aid, which he defined under Article 2 of the same law. Rather, he used the term seller. This is an error that the legislator must correct because the term economic aid is more comprehensive.From the term seller ,in addition to the fact that the term "seller" is used in general rules such as the amended and supplemented Algerian Civil Code, in addition to the use of the term "customer." The legislator had to use the term "consumer," because the article is stipulated in the legal texts related to consumer protection and not the general rules. Therefore, it was suggested that the term "seller" be replaced with Economic agent in all articles of Law N°: 04-02 to be consistent with the legal definition of economic aassistance which, as we said, is more comprehensive than the term seller.

1. **Means of commitment to media in the relationship between economic aid and the consumer**

Article 05 of Law N°: 04-02 specifying the rules applicable to commercial practices, amending and supplementing the aforementioned, stipulates: "The consumer must be informed of the prices and tariffs of goods and services by placing signs and/or markings or comments or by any other appropriate means. It must be prices and tariffs are clearly visible and readable." It is understood from the text of the article that the Algerian legislator states that the obligation to inform about prices is a legal duty and an obligation imposed by the Algerian legislator on the economic aid that must be applied.

The legislator also did not specify the means of implementing information about prices and tariffs for the benefit of the consumer, which came as an example but not limited to it. It gave freedom to the economic aid agency to use the means it deems appropriate to inform the consumer of the prices and tariffs of goods or services offered for sale, except in some goods and services that require a specific form of informing them of their prices. The article also required that prices and tariffs be shown in a visible and legible manner, and thus the legislator excluded informing the consumer orally.

The process of informing consumers of prices and tariffs also varies depending on the sectors of activity and the goods and services purchased from the consumer. The means of implementing information of prices and tariffs in the sectors of activity, goods and regular services are:

1.1.**Tags**

Marks, according to the text of Article 02 of Law N°: 03-06[1], are symbols that can be represented in writing, especially words, including the names of people, letters and numbers, drawings or pictures, distinctive shapes of goods or their packaging, and colors alone or in combination, which are all used to distinguish goods. Or the services of a natural or legal person for the goods and services of others. According to the article, the marks intended by the Algerian legislator are trademarks that are subject to their own legal system in order to protect them from any attack.

Marks are often used to inform the prices of small-sized goods that cannot bear labels, such as jewelry. Marks are placed on or around the product in such a way that they leave no room for doubt as to its affiliation to another product, neither in terms of nature nor in terms of quality. Marking applies to goods presented to the public in the public eye. Goods that are not packaged and sold by

[1]Order N°: 03-06 dated 19 July 2003, relating to marks, Official Gazette N° 44, issued on July 23, 2003.

unit, weight or measure, and the consumer is informed of their prices by placing a small board or sign, and it must be easy to read, and in the national language and currency.

The goods offered for sale must also be counted, weighed, or measured, whether by unit, weight, or measure, in front of the buyer, and when these goods are packaged, counted, weighed, or measured, marks must be placed on the packaging that allow knowing the weight, quantity, or number of items corresponding to the announced price in accordance with what It is stipulated in the third paragraph of Article 5 of Law Nº: 04-02 specifying the rules applicable to commercial practices, amending and supplementing the aforementioned.

It can be said that the trademark plays a prominent role in informing the consumer about the product or service and distinguishing them from each other so that he can choose what he wants to satisfy his personal needs, his family's needs, or his pet's care.

**1.2..hashtag**

Article 03 of Law Nº: 09-03 relating to consumer protection and suppression of fraud defines a label as all data, writings, signs, marks, features, images, statues or symbols associated with a commodity that relate to a product and which are found in any packaging, document, writing or label. Or a ring or collar that accompanies or is linked to a product or service, regardless of its form or support, regardless of the way it is placed[1].

It is also known, according to Article 03 of Executive Decree Nº: 90-39 related to quality control and suppression of fraud, as all signs, data, factory or trade addresses, pictures, evidence or symbols that relate to a product and that are found in any packaging, document, writing, label, seal, or collar. Accompanying or relating to a product or service[2].

There is another definition of the label, according to Article 03 of Executive Decree Nº: 05-484, that it is every written or printed text or every graphic display that appears on the label, which is attached to a product or placed near the latter in order to promote the sale[3].

Through the legal definitions of the label mentioned above, the label is an obligation imposed by the laws related to consumer protection on every professional or economic agent who practices the process of placing the product for consumption to inform the consumer. It is an identification card that includes the data placed on the covers or packages, which is considered necessary to inform the consumer and is in a way that does not Suggest any problems or disturbances in the mind of the consumer.

We also note that the Algerian legislator did not define the marking under Law Nº: 04-02 specifying the rules applied to commercial practices, and merely defined it in the legal and regulatory texts related to consumer protection and the suppression of fraud. This is what the Algerian legislator is faulted for, so we suggest that he add a definition of the marking according to a paragraph in the text of the article. 3 of Law Nº: 04-02 states: "Every written or printed text or every graphic display that appears on the label, which is attached to a product or placed near it.", which agrees with Article 03 of Executive Decree Nº: 05-484 mentioned above.

.1.3.**Pendants**

It is considered one of the means of informing the consumer about the prices of

[1]Law Nº: 09-03 to February 25, 2009, relating to consumer protection and suppression of fraud, Official Gazette No. 15, issued on March 8, 2009, amended and supplemented by Law Nº: 18-09 of Ramadan 25 of the year 1436, corresponding to June 10, 2018, Official Gazette Nº 35, issued on June 13, 2018.

[2]Executive Decree Nº 90-39 datedof 30 January, 1990, relating to quality control and suppression of fraud, Official Gazette Nº. 05, issued on January 31, 1990, amended and supplemented.

[3]Executive Decree Nº. 05-484 of December 22, 2005, relating to the labeling and display of food commodities, Official Gazette Nº 83, issued on December 25, 2005, amending and supplementing Executive Decree Nº: 90-367 of November 10, 1990.

various services, and is often used in the field of services. This information is made by placing a single document written in clear handwriting that contains a list of the services provided and the corresponding prices, with the obligation to place the notice in the places where these services are provided, so that it is easy to view. On it from the public.

Referring to the term Mu'allaqah, the Mu'allaqatare named in relation to the suspended thing, and they are represented in a table hung in the place of the service proposal that includes its prices and nature so that it is well readable and visible. In addition, it includes additional fees and costs if the service is accompanied by additional or special operations, as well as transportation costs. .etc

**2. Consumer media in some sectors of activity or some specific goods and services**

Economic aid is obligated to inform of prices and tariffs in the event that the customer is a consumer in some sectors of activity or some goods and services specified in accordance with the last paragraph of Article 05 of Law Nº: 04-02 mentioned above, according to which Executive Decree Nº: 09-65 was issued specifying the special procedures related to Information about the prices applied in some sectors of activity or some specific goods and services[1], which stipulates in Article 2 of the special methods related to information about prices and advertising related to goods and services that depend on the use of certain means, especially technical supports, technology and communication, or sectors of activity, goods and services that Their prices and definitions require special media standards

Article 3 of the same decree clarifies the manner in which the information process is carried out by advertising and announcing the prices and tariffs applied to some sectors of activity and the goods and services concerned through the supports of automated media, audio-visual and telephone means, electronic boards, directories, brochures, or any other appropriate means. The same has been required. The Economic Aid Decree stipulates the necessity of informing the consumer of the information regarding the price and tariffs, with the necessity of specifying the total amount corresponding to the price paid by the consumer, its components, and the method of payment before completing the transaction, with the need for the writing to be in Arabic or by adding another foreign language[2].

**3. Means of commitment to the media in the relationship between economic agents**

As for the notification of prices and tariffs in the event that the customer is an economic agent, Article 07 of Law Nº: 04-02 mentioned above states that: "In relations between economic agents, the seller is obligated to inform the customer of the prices and tariffs upon request, and this notification shall be through price tables, brochures, or price guide, or by any other appropriate means generally acceptable in the profession.", Through the text of the article, the obligation to inform among economic agents is not binding unless the economic agent requests it and the customer. The reason for the legislator's failure to oblige price information among economic agents in our view is due to the strong position of the economic agent and his knowledge of prices as a result of prior commercial transactions, unlike the consumer who is in the position of Weakness, as there is no special means by which to carry out the notification of prices and tariffs, as these means came as an example and are not limited to it, and the notification of prices and tariffs can be by any other appropriate and generally acceptable means in the profession, that is, according to commercial customs.

The means of implementing information about prices and tariffs in the event that the customer is an economic agent differ from the means imposed in the case of dealing with the consumer. These means are:

[1]Executive Decree Nº: 09-65 dated February 7, 2009, specifying the special procedures related to information about the prices applied in some sectors of activity or some relevant goods and services, Official Gazette Nº10, issued on February 11, 2009.

[2]Articles 05, 06, and 07 of Executive Decree Nº 09-65.

**1.3**. **Price tables**

Price tables are defined as lists containing a group of goods and services offered, accompanied by their prices. They are posted in shops in places where they can be easily seen and read by the customer, in a way that leaves no room for doubt about the nature of the good or service and its price.

**2.3.Infographics**

You know that they are advertising publications, which give us sufficient information about each commodity and its corresponding price.

**3.3.Price guide**

It is an advertising brochure that an economic agent or a large store proposes to its customers, which includes a combination of prices and options available to the customer regarding similar goods or services, such as a guide for the prices of goods such as cars of the same type, which includes the price of each type, according to the characteristics it contains, or a guide for services. Such as the guide prepared by travel agencies, which includes the prices of various services available to the customer.

The purpose of the price guide is to facilitate commercial transactions between economic agents, because sometimes goods, due to their nature or abundance, are not displayed to the public, but are placed in warehouses. Therefore, a price guide is drawn up, which defines the existing commodity, along with its selling price.

In addition to the seller's obligation to inform the consumer or inform the economic agents of the prices and tariffs of goods and services, the announced prices or tariffs must agree with the total amount paid by the customer in exchange for purchasing a good or obtaining a service[1].

**Second: Commitment to deal with the invoice**

The invoice is an accounting document and a commercial paper that proves the occurrence of the purchase and sale process. It is completed by Economic Aid and delivered to the consumer. It precisely specifies the quantity, quality, and price of the goods or services provided. It has a legal value as a tool to prove the sale process and the conditions for its implementation. It is completed in at least two copies[2], one copy is given to the consumer and kept. Economic aid in the accounting department.

In Law Nº: 04-02 mentioned above, the Algerian legislator used two terms: invoice and invoicing. The first is a mandatory commercial document that is dealt with between the economic agents among themselves, or between the economic aid and the consumer if the consumer requests it, and it is delivered once the sales contract is concluded or the service is performed. It is subject to specific legal conditions in accordance with Executive Decree Nº:05-468, which specifies the conditions for issuing the invoice, the transfer bond, the delivery receipt, the total invoice, and the methods for doing so[3]. As for billing, it is the process through which invoices for sales operations or service performance are prepared.

1. **Commitment to deliver the invoice if the customer is a consumer**

As we mentioned previously, the invoice is one of the means of proving commercial transactions between the economic aid and the consumer, but it has an exception regarding the extent of the obligation of the seller, i.e. the economic aid, to deliver the invoice and the extent of the obligation of the buyer to receive it, as the sale of goods or the provision of the service to the consumer must be the subject of a receipt, a box or a bond. This treatment is justified, but the invoice or document that replaces it must be delivered if requested by the customer, and the form of the document that replaces the invoice is determined, as well as the categories of economic agents obligated to deal with it through regulation[4].

[1]According to Article 06 of Law Nº: 04-02.

[2]Article 30 of Order Nº:75-59 of September 26, 1975, includes the Commercial Code, amended and supplemented.

[3]Executive Decree Nº: 05-468 dated December 10, 2005, specifying the conditions for issuing the invoice, transfer bond, delivery receipt, and total invoice and the methods thereof, Official Gazette Nº 80, issued on December 11, 2005.

[4]Paragraphs 3 and 4 of Article 10 of Law Nº: 04-02, amended by Article 3 of Law Nº: 10-06 specifying the rules applied to commercial practices.

In his relationship with the consumer, the seller must deliver the invoice if he requests it in accordance with the last paragraph of Article 2 of Executive Decree N°: 05-468, which specifies the conditions for issuing the invoice, the transfer bond, the delivery receipt, the total invoice, and the methods for that.

**2. Commitment to deliver the invoice if the customer is an economic agent**

Every sale of goods or provision of services between economic agents must be the subject of an invoice. The seller must deliver it and the buyer must request it from him. It must be delivered as soon as the sale is made or services are performed, because the Algerian legislator considered the invoice a means of proof and accounting in commercial transactions between economic agents. The legislator mentioned alternatives to the invoice that are used in other cases, namely:

**1.2**. **Delivery arrived**

The delivery receipt is used instead of the invoice in recurring and regular commercial transactions when selling to the same customer. This is to avoid using a large number of invoices for fear of losing them, provided that a total invoice is drawn up immediately at the end of the month period, highlighting the total sales with each customer that were the subject of delivery receipts, and this total invoice includes the data. The aforementioned invoice is mandatory in addition to the numbers and dates of the delivery receipts issued in accordance with the text of Article 11 of Law N°: 04-02, and the text of Articles 14 and 17 of Executive Decree N°: 05-468 mentioned above.

The delivery receipt is a document issued by the seller that contains the same mandatory data related to the seller and buyer and the form and content of the invoice stipulated in Executive Decree No. 05-468 mentioned above, with the word invoice replaced by the delivery receipt and highlighting the decision number and date that allows it to be used by the Commerce Department. It must contain the name, surname and identification card number of the deliverer or carrier.

**2.2**. **Transfer document**

The last paragraph of Article 11 of Law N°: 04-02 mentioned above stipulates that goods that are not the subject of commercial transactions must be accompanied, when transported, by a transfer bond justifying their movement. The transfer bond is used when the economic aid transports a commodity to its units for storage, transfer, packing, or storage. Marketing without a commercial transaction taking place, provided that the transfer document is dated and numbered and must include data related to the economic aid, represented by the name and surname, designation or commercial address, address, telephone and fax number, as well as the electronic address when necessary, the commercial registration number, and the nature and quantity of the transferred goods. The address of the place from which the goods were transferred and the place to which they were transferred, the signature and stamp of the economic aid, the name and surname of the deliverer or carrier whose capacity was proven[1].

**Conclusion:**At the end of the study, we conclude by saying that the principle of the obligation to inform of prices and tariffs and dealing with the invoice are among the regulatory mechanisms in the field of prices, and they are among the legal mechanisms to achieve the principle of transparency of commercial practices in order to protect the economic interests of the consumer, and the obligation to inform of prices and tariffs is considered among the pre-contractual obligations imposed on Economic aid. As for the obligation to deal with the invoice, it is one of the obligations imposed on the economic aid after contracting. It has economic, financial, and commercial importance, and it is evidence of proof in commercial transactions. Failure to respect these obligations, especially non-invoicing, causes harm to the national economy and the public treasury due to failure to deal with the invoice, or dealing with fake invoices.

[1]Articles 12 and 13 of Executive Decree N°: 05-468.

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At the end of this study, a number of recommendations were proposed:

- Amending the term seller to economic aid in all articles of Law No. 04-02 to be consistent with the legal definition of economic aid because it is more comprehensive than the term seller.

–Consolidating consumer culture among consumers.

- The consumer is keen to request and receive the invoice when purchasing or purchasing a service.

- The consumer keeps the invoice, so losing it is a loss of your right, because it is a legal means of proving your right.

**List of sources:**

**Legal texts:**

1. **Laws:**

- Law N°: 04-02 dated June 23, 2004, specifying the rules applicable to commercial practices, Official Gazette N°. 41, issued on June 27, 2004, amended and supplemented
- Law N°: 09-03 to February 25, 2009, relating to consumer protection and suppression of fraud, Official Gazette No. 15, issued on March 8, 2009, amended and supplemented by Law N°: 18-09 of Ramadan 25 of the year 1436, corresponding to June 10, 2018, Official Gazette N° 35, issued on June 13, 2018
- Order N°:75-59 of September 26, 1975, includes the Commercial Code, amended and supplemented.
- Order N°: 03-06 dated 19 July 2003, relating to marks, Official Gazette N° 44, issued on July 23, 2003.

2. .**Executive decrees:**

- Executive Decree N° 90-39 datedof 30 January, 1990, relating to quality control and suppression of fraud, Official Gazette N°. 05, issued on January 31, 1990, amended and supplemented.
- Executive Decree N°. 05-484 of December 22, 2005, relating to the labeling and display of food commodities, Official Gazette N° 83, issued on December 25, 2005, amending and supplementing Executive Decree N°: 90-367 of November 10, 1990.
- Executive Decree N°: 05-468 dated December 10, 2005, specifying the conditions for issuing the invoice, transfer bond, delivery receipt, and total invoice and the methods thereof, Official Gazette N° 80, issued on December 11, 2005.
- Executive Decree N°: 09-65 dated February 7, 2009, specifying the special procedures related to information about the prices applied in some sectors of activity or some relevant goods and services, Official Gazette N°10, issued on February 11, 2009.