



**SCREENING CHAPTER 10
INFORMATION SOCIETY AND MEDIA**

AGENDA ITEM 17 : ELECTRONIC COMMERCE

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CONTENT

- 1- INSTITUTIONS
- 2- APPLICATION
- 3- FREEDOM OF SERVICE
- 4- RESTRICTIONS
- 5- NO PRIOR AUTHORIZATION
- 6- SELF REGULATION OF BANKS ON TRANSPARENCY
- 7- COMMERCIAL COMMUNICATION
- 8- ELECTRONIC CONTRACTS
- 9- OTHER PROVISIONS ON E-CONTRACT
- 10- LIABILITY OF INTERNET INTERMEDIARIES
- 11- OUT OF COURT DISPUTE SETTLEMENT



INSTITUTIONS

Institution	Function
State Planning Organization	Information Society Strategy
Undersecretariat of Foreign Trade	e-Commerce
Ministry of Industry and Trade	Consumer Protection
Telecommunications Authority	e-Signature



APPLICATION

Regarding the harmonisation of Turkish legislation with the Directive 2000/31/EC, the principles of the Directive such as enhancing development e-Commerce, providing legal security to providers of information society services as well as to the consumers and public in general can be found in different Laws, such as:

- e-Signature Law
- Law of Obligations
- Consumer Protection Law
- Turkish Criminal Code



FREEDOM OF SERVICE (1)

The information society services are open to domestic and foreign enterprises because of the nature of the services provided, enterprises can offer their services without any barrier in Turkey or from another country as required by the Directive.



FREEDOM OF SERVICE (2)

Only a national court can restrict freedom of services due to general reasons such as public security, public policy including protection of minors, consumers, public health, etc.



RESTRICTIONS

- Copyright, neighbouring rights, industrial property rights:
For example on copyright Mü-Yap firstly determines illegal content (music CD, MP3, etc.) on a web site, then warn about this web sites),
- Law No.5070 on Electronic Signature Art.5 provides that the legal transaction that are subject to a certain formal or particular procedure shall not be made by electronic signature. For example real estate sales.



NO PRIOR AUTHORIZATION

- Establishing an information society service is not subject to prior authorization in Turkey.
- Establishing an information society service is easy and not subject to bureaucratic hurdles.
- Intermediary services such as hosting services are not required to have a prior permission in Turkey.



SELF REGULATION OF BANKS ON TRANSPARENCY

Anyone can have POS for online transactions as long as they can offer their products or services online. Some of the conditions which need to be met for having POS include having technical infrastructure for the service and a web page with SSL information as well as the web page should explicitly bear the name and address of the company, phone number, e-mail address and fax number, product catalogue, delivery information and etc.

The banks review every application in order to see if the conditions are met. The possible reasons for decline of the application include returned check problems, a bad credit history and etc.



COMMERCIAL COMMUNICATION

Article 16 of Law on Consumer Protection (4077 amended by Law No.4822) defines the commercial communication. It also states that the commercials in any form shall be accurate in content and be in compliance with the laws in force.

Commercial advertisement and notices must be fair and correct and must comply with laws, principles adopted by the Board of Advertisement, public morality, public order and individual rights.



ELECTRONIC CONTRACTS

The main principles regarding concluding contracts are laid down in the Law of Obligations.

Article 1 of the Law of Obligations states that there is no formal requirement for concluding contracts.

Article 14/1 of the Law of Obligations stipulates that “secure electronic signature has the same verification power as one signed manually”.



OTHER PROVISIONS ON E-CONTRACT

With the increase in use of electronic instruments in business life Electronic Signature Law was enacted and other necessary changes were made as well as new rules were introduced into the Turkish legislation which include:

- Electronic Signature Law
- Code of Civil Procedure
- Customer Protection Law



LIABILITY OF INTERNET INTERMEDIARIES

No regulation exists on the liability of internet intermediaries providing services consisting of mere conduit, caching and hosting.

Despite no legislation in Turkish legislation on limitations on the liability of internet intermediaries, practically national court or administrative authority can require a service provider to terminate or prevent an infringement.

This is a general policy to fight against illegal content for reasons such as public security, public policy including protection of minors, consumers, public health, etc.



OUT OF COURT DISPUTE SETTLEMENT

The Article 22 that was added to Consumer Protection Law (4077 amended by Law No. 4822) states that the Ministry of Industry and Trade is to establish at least one arbitration committee for consumer problems at the centers of provinces and districts to resolve the disputes arising from the application of the Consumer Protection Law.

Currently, there are 931 Arbitration Committees for Consumer Problems, 81 of which established in provinces and 850 of which established in districts.



THANK YOU