

**The Legal Framework of Digital Marketing Tools in Algerian E-Commerce
between Regulatory Fragmentation and Digital Transformation : A
Comparative Analytical Study with Statistical Evidence**

الإطار القانوني لأدوات التسويق الرقمي في التجارة الإلكترونية الجزائرية بين تشتت التنظيم
والتحول الرقمي: قراءة تحليلية مقارنة مدعمة بمؤشرات إحصائية

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Date of Submission 10-04-2025 Date of Final Acceptance 29-05-2026 Date of Publication June 2026

Abstract:

The rapid expansion of digital marketing tools in Algerian e-commerce has exposed significant gaps in the existing legal framework, marked by regulatory fragmentation and the absence of a coherent consumer protection regime. Despite the enactment of Law No. 05-18 on e-commerce and Law No. 07-18 on personal data protection, the Algerian legislative framework remains inadequate compared to the accelerating pace of digital commercial practices and prevailing international standards. This study critically examines the legal regulation of digital marketing tools in Algeria through a doctrinal and comparative approach, drawing on national legislation, judicial practice, while using statistical indicators as empirical evidence of existing legal gaps. The study concludes that Algeria urgently requires comprehensive legislative reform, encompassing clearer liability rules, closer alignment with international digital law standards.

Keywords: Digital Marketing; E-Commerce; Legal Regulation; Consumer Protection; Comparative Law; Empirical Legal Analysis.

ملخص:

أسفر التوسع المتسارع في استخدام أدوات التسويق الرقمي في إطار التجارة الإلكترونية الجزائرية عن كشف ثغرات جوهرية في المنظومة القانونية القائمة، تتجلى في تشتت النصوص التنظيمية وغياب نظام متكامل لحماية المستهلك الرقمي. وعلى الرغم من صدور القانون رقم 05-18 المتعلق بالتجارة الإلكترونية، والقانون رقم 07-18 المتعلق بحماية الأشخاص الطبيعيين في مجال معالجة البيانات الشخصية، يظل الإطار التشريعي الجزائري قاصراً عن مواكبة الممارسات التجارية الرقمية المتطورة ومتطلبات المعايير الدولية. تسعى هذه الدراسة إلى تقييم الإطار القانوني لأدوات التسويق الرقمي في الجزائر من خلال منهج تحليلي مقارن، مستنداً إلى التشريع والاجتهاد القضائي، مع توظيف المؤشرات الإحصائية دليلاً تجريبياً على الفجوات القانونية القائمة. وتخلص الدراسة إلى ضرورة إصلاح تشريعي شامل ينسجم مع معايير القانون الرقمي الدولي. الكلمات المفتاحية: التسويق الرقمي؛ التجارة الإلكترونية؛ التنظيم القانوني؛ حماية المستهلك؛ القانون المقارن؛ التحليل القانوني التجريبي.

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Introduction :

The accelerating expansion of digital commerce has confronted legal systems worldwide with a fundamental challenge: how to regulate an environment whose pace of transformation consistently outstrips the capacity of existing legislative frameworks to respond. In Algeria, this challenge is particularly acute, as the rapid growth of digital marketing tools and e-commerce platforms has exposed significant gaps in the current regulatory architecture, raising pressing questions about legal certainty, consumer protection, and fair competition in the digital marketplace.

The last decade has witnessed a radical transformation in the infrastructure of global marketing and trade. Recent data indicates that the global e-commerce market is projected to reach \$6.3 trillion by 2024 (Statista, 2024)¹. This digital shift has led to the emergence of digital marketing as a key strategic mechanism in boosting e-commerce activities, now accounting for 63% of total corporate marketing spending in developed countries (HubSpot, 2023)².

In the context of globalization and especially following the Covid-19 pandemic, there has been a notable shift toward e-commerce, driven by the widespread accessibility of digital technologies. This is evident from the significant growth in internet users in Algeria; according to the most recent statistics, the number of fixed internet subscriptions reached approximately 5.54 million in 2023, up from 4.71 million in 2022 (The Global Economy, 2025)³. In addition, the total number of internet subscribers in Algeria exceeded 50 million in the first quarter of 2023 (APS, 2025)⁴.

With the accelerated growth of e-commerce in Algeria, the need for a coherent legal framework governing digital marketing tools has become more urgent than ever. Although digital marketing strategies — such as targeted advertising, influencer campaigns, and personalized email marketing — are widely used by e-commerce operators, current Algerian legislation remains fragmented and lacks specific provisions regulating their use within the online commercial space. While Laws No. 05-18 on e-commerce and No. 07-18 on personal data protection represent important legislative steps, they do not sufficiently address the unique legal dynamics of digital marketing tools, particularly regarding transparency, data privacy, liability, and cross-border transactions. **This legislative fragmentation constitutes the central legal problem this study seeks to examine.**

Despite efforts by regulatory bodies to modernize the legal environment, Algeria has yet to adopt a specialized framework equivalent to international models that integrate taxation, data regulation, and marketing accountability. This regulatory gap can lead to unfair competition between domestic and international platforms and creates ambiguity in tax compliance for digital service providers. Recent studies stress the importance of adopting international best practices — such as those proposed by the OECD and the European Commission — to ensure fair digital marketing practices and equitable taxation (Organisation for Economic Co-operation and Development, 2023)⁵.

Considering the foregoing, the central legal question this study addresses is: To what extent does the current Algerian legal framework effectively regulate digital marketing tools and e-commerce practices in light of rapidly evolving digital transformations? And how can statistical indicators serve as empirical evidence to identify legal gaps and support proposals for more effective regulatory mechanisms?

The significance of this study lies in its doctrinal and comparative approach to an underexamined area of Algerian law, bridging the gap between the rapidly evolving digital marketing landscape and the existing legislative framework. The findings aim to inform policymakers, legal practitioners, and businesses, contributing to the development of a more coherent and enforceable regulatory environment.

This study pursues four interconnected objectives:

- 1- Monitoring the development of local legislation — Algeria's experience;
- 2- Analyzing practical legal challenges in implementation;
- 3- Comparing with leading international regulatory models;
- 4- Providing recommendations based on legal text analysis supported by statistical indicators.

This study employs a **doctrinal legal analysis** as its primary method, involving systematic examination of Algerian legislative texts — principally Law No. 05-18 on e-commerce and Law No. 07-18 on personal data protection — alongside relevant regulatory instruments and judicial practice. This doctrinal analysis is complemented by a **comparative legal approach**, drawing on selected international regulatory frameworks, particularly the European Union's General Data Protection Regulation (GDPR), the CAN-SPAM Act of the United States, and the guidelines issued by the OECD and the European Commission, in order to situate Algerian law against established international standards.

In addition, the study incorporates **empirical legal analysis**, drawing on statistical data from credible national and international sources — including Statista, Datareportal, UNESCWA, and the National Centre for Commercial Registration — not as an independent methodological objective, but as **quantitative evidence** to substantiate identified legal gaps and reinforce the doctrinal findings. This combination reflects an **integrated legal research design** that bridges theoretical normative analysis with empirically grounded legal critique.

The study is structured as follows:

- 1- Digital Marketing Tools in E-Commerce: An Analytical Framework
- 2- Legal Challenges of Digital Marketing Tools
- 3- Legislative Issues Posed by Electronic Commerce Law No. 05-18
- 4- Statistics and Their Role in Understanding Legal Challenges: A Quantitative and Qualitative Analysis

I. Digital Marketing Tools in Algerian E-Commerce : A Legal and Regulatory Framework

In the Algerian context, the study by (MALAOU, 2024)⁶ showed that the e-commerce sector is experiencing rapid growth at an annual rate of 25%, prompting the Algerian legislator to intervene by issuing Law 18-05 on e-commerce. However, this growth is accompanied by significant legal challenges, mainly related to the protection of personal data (Law 18-07), regulations on electronic advertising (Article 30 of Law 18-05), and intellectual property rights (Ordinance 03-06).

Globally, the challenge lies in reconciling the demands of digital innovation with legal protection. For instance, a survey by (Streim, 2021)⁷ in Germany revealed that 76% of companies experienced delays in innovation projects due to GDPR requirements, and 86% halted projects because of uncertainties related to the regulation. Conversely, there is a noticeable weakness in the practical enforcement of legal regulations in developing environments, as confirmed by (ROUCHOU, 2022)⁸ analysis of Algerian legislation.

The global challenge is balancing digital innovation with legal protection. A study by (Aslam, 2023)⁹ indicated that 78% of companies face difficulties complying with international regulations such as the General Data Protection Regulation (GDPR) in the European Union. Conversely, there is

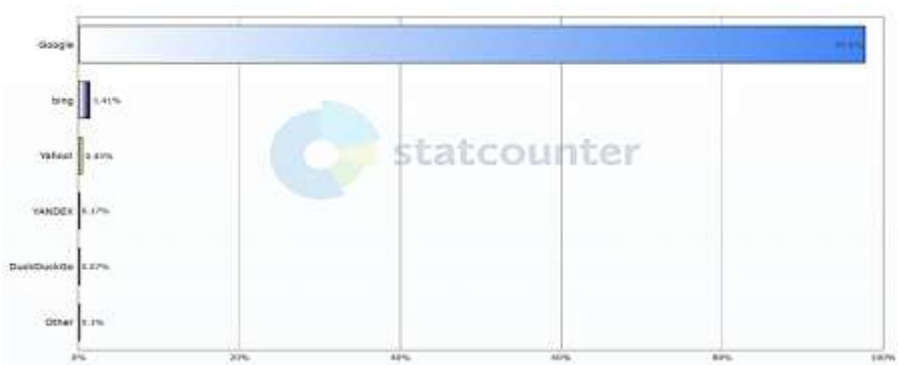
a noticeable weakness in the practical enforcement of legal regulations in developing environments, as confirmed by (ROUCHOU, 2022)¹⁰ analysis of Algerian legislation

The field of digital marketing is undergoing rapid development within the context of e-commerce. Recent studies highlight the growing reliance on an integrated set of digital tools that function synergistically to achieve marketing objectives. These tools can be categorized as follows:

A) Search Engine Marketing (SEM):

This mechanism is considered one of the most widespread digital marketing tools, accounting for approximately 40% of total global digital marketing spending (Statista, 2024)¹¹, and 62% of Algerian companies engaged in e-commerce rely on search engine advertising as a primary tool (International Trade Administration , 2023)¹². Yet despite this widespread commercial use, search engine marketing operates within a legally undefined space under Algerian law. While Article 30 of Law No. 05-18 imposes general disclosure obligations on digital commercial communications, no specific provision addresses paid search advertising or the accountability of search engine intermediaries — a gap that stands in marked contrast to the transparency requirements established by EU Regulation 2019/1150. This technique is distinguished by its ability to precisely target audiences through the analysis of search intent, as (Cavalcanti , Oliveira, & Santini , 2022)¹³ explained in their analysis of digital transformation mechanisms.

Figure 1: Search Engine Market Share Algeria from Jan 2022 - Mar 2025



Source: (Statcounter, 2025)¹⁴

B) Social Media Marketing:

Recent data indicates that 78% of professional marketers incorporate social media platforms into their marketing strategies (HubSpot, 2023)¹⁵, and a field study on a sample of Algerian enterprises found that 85% use Facebook and Instagram as primary channels for customer engagement (Maiche , 2017)¹⁶. The importance of this tool lies in its ability to generate interactive engagement, which (Chaffey & Chadwick , 2022)¹⁷ identify as a crucial factor in the success of digital marketing campaigns. From a legal standpoint, however, this pervasive commercial practice remains largely unregulated under Algerian law: Law No. 05-18 contains no specific provisions governing influencer marketing, sponsored content, or disclosure obligations for paid social media promotion, despite these constituting some of the most commercially significant forms of digital advertising used by Algerian e-commerce operators. This legislative vacuum not only exposes consumers to undisclosed commercial influence, but also creates legal uncertainty for businesses seeking to assess their compliance obligations — a situation that a more coherent regulatory

framework, modelled on the FTC's Endorsement Guides or the EU's Digital Services Act, would be well-placed to resolve.

C) Content Marketing:

Content marketing is classified as one of the most effective tools for building trust with the target audience, contributing to increasing conversion rates by up to 30% compared to traditional methods (Kemp, 2024)¹⁸. A report by (Deloitte, 2023)¹⁹ showed that 45% of consumers in the Arab region rely on educational content before making a purchase decision, (Ewis & Abdou, 2025)²⁰ confirmed in his analysis of the Egyptian experience that content marketing enhances brand loyalty by 60%. Notwithstanding this commercial significance, content marketing occupies a legally ambiguous position in the Algerian regulatory framework: Ordinance No. 03-06 on trademarks and Ordinance No. 03-05 on copyright provide only a partial protective framework, as neither instrument was designed to address the specific dynamics of commercially driven content strategies. The boundary between protected creative expression and commercially exploitative content reproduction remains legally undefined, exposing both content creators and platform operators to unresolved liability risks — a regulatory deficit that the Algerian legislator has yet to address through sector-specific guidance.

D) Email Marketing:

Despite being one of the oldest digital marketing tools, email marketing continues to demonstrate remarkable effectiveness, achieving a return on investment of up to 3800% according to the Direct Marketing Association. A comparative study across Arab markets found that the email open rate in Algeria reaches 28%, higher than the global average of 21% (Chanoune, Boukrif, & Makhloufi, 2022)²¹, and a study by (Kotler, Kartajaya, & Setiawan, 2021)²² indicated that personalisation in email messages increases conversion rates by 35%. Yet this commercially significant practice operates under considerable legal uncertainty in Algeria : while Law No. 07-18 on personal data protection establishes a consent-based framework for the processing of personal data — which theoretically encompasses email marketing activities — its implementing decrees do not specifically define the conditions under which prior consent may be validly obtained for direct marketing campaigns. This stands in marked contrast to the precision of the GDPR's opt-in requirements under Article 6(1)(a) and the operational clarity provided by the U.S. CAN-SPAM Act. The result is a compliance environment in which Algerian businesses lack clear legal guidance, and consumers lack effective protection against unsolicited commercial communications.

Table 1 : Global Digital Advertising Spending Growth (2019–2023)

Year	Spending (in Billion USD)
2019	325
2020	356
2021	389

2022	455
2023	523

Source: (Datareportal, 2023)²³

The data presented in Table 1 reveals a consistent and structurally significant expansion in global digital advertising expenditure, rising from USD 325 billion in 2019 to USD 523 billion in 2023. The most pronounced acceleration occurred between 2021 and 2022, with an annual increment of USD 66 billion, a trajectory widely attributed to the accelerated digitalisation of commercial activity in the aftermath of the COVID-19 pandemic. From a legal standpoint, this exponential growth in digital commercial spending amplifies the regulatory stakes considerably: the greater the volume of digital advertising transactions, the more acute the consequences of legislative gaps in transparency, liability, and consumer protection. In the Algerian context, where e-commerce platforms and digital marketing operators function within a framework that lacks sector-specific regulation, this global expansion translates directly into an expanding zone of legal uncertainty — one in which both businesses and consumers bear the costs of regulatory inaction. The convergence of commercial dynamism and legislative stagnation that these figures illustrate constitutes, in essence, the central regulatory challenge this study seeks to address.

Table 2: Digital Landscape and E-commerce Overview in Algeria

Category	Statistics
Population	41.6 million inhabitants
Internet Penetration (2017)	44.2% of the Algerian population (18.6 million internet users)
Smartphone Penetration (2017)	32.4% of the population (over 13 million devices)
Search Engine Market Share	Google: 93.54%, Yahoo: 5.25% (Statcounter)
E-commerce Market Potential	Estimated at US\$ 5 billion (Algerian National Trader and Artisan Association)
E-commerce Growth	E-commerce started taking off in 2014, with Jumia being a major player
Leading Local Retailers	Zawwali, Batolis, Dzboom
E-commerce Law (2018)	Online marketplaces must host websites in Algeria and register in the commercial register; bans on certain products like tobacco, alcohol, pharmaceuticals, and gambling
Social Media Users (2018)	21 million active users, 46% of the total population (mobile access by 19 million users)
Most Active Social Platform	Facebook: Nearly all internet users (21 million)
Instagram Users (2018)	3.4 million users (62% male, 38% female)

Source: (Standard Bank , 2025)²⁴

Note: The data presented in Table 2 reflect the digital landscape of Algeria as recorded in 2017–2018, as compiled by Standard Bank (2025) from historical sources. While more recent aggregate data are

available for individual indicators (see Sections I and IV), this overview table is retained for its comprehensive baseline mapping of Algeria's digital infrastructure at the onset of its e-commerce growth trajectory.

II. Legal Challenges of Digital Marketing Tools
A) Protection of Personal Data:

The protection of personal data in the context of digital marketing constitutes one of the most acute legal challenges confronting the Algerian regulatory framework. The Algerian legislator faces a fundamental challenge in implementing Law No. 07-18 concerning the protection of natural persons in the processing of personal data: according to (CHERIFI & ZERGUINI, 2024)²⁵, 62% of Algerian digital platforms are still not fully compliant with the requirements of informed consent — a figure that is striking given that the law has been in force since 2018 and that non-compliance carries penalties ranging from financial fines of up to 200 million DZD to custodial sentences of up to five years. That these deterrent sanctions have not produced adequate compliance levels points not merely to enforcement failures, but to deeper structural weaknesses in the supervisory architecture, as confirmed by the 2023 report of the National Authority for the Protection of Personal Data.

The structural divergence between Algerian law and more developed frameworks is quantified in **Table 3** below, which compares the privacy protection regimes of the GDPR, Algerian Law No. 07-18, and the California Consumer Privacy Act (CCPA):

Table 3 : Comparison of Privacy Protection Frameworks (GDPR, Algerian Law, CCPA)

Criterion	GDPR (Europe)	Algeria	CCPA (California)
Scope of Application	Comprehensive (all companies)	Limited (local and emerging)	Large companies only
User Rights	Full (access, erasure)	Partial	Access and objection
Financial Penalties	Up to 4% of global turnover	No clear fines	Specific fines
User Notification	Mandatory	Not always explicitly required	Mandatory

Source: (Datareportal, 2023)²⁶

The comparison reveals significant differences in the maturity and enforcement strength of privacy protection laws across the three jurisdictions. The GDPR stands out as the most comprehensive, offering full user rights, strict enforcement mechanisms, and mandatory transparency across all business sizes and sectors. In contrast, Algeria's framework remains limited and emerging, with partial user rights, unclear penalties, and inconsistent notification requirements. The CCPA, although narrower in scope — applying primarily to large companies — provides clear user rights and defined penalties, reflecting a balanced, business-friendly approach to privacy. The comparison nonetheless reveals a structural gap: Algerian law lacks an independent supervisory body with sanctioning powers equivalent to the national data protection authorities operating under the GDPR. Until this institutional deficit is addressed, legislative reform alone is unlikely to produce significantly different compliance outcomes. The comparison with European law reinforces this institutional

reading. A comparative analysis by (Data Privacy Manager, 2025)²⁷ shows that the GDPR is distinguished by more effective enforcement mechanisms, with fines in 2023 surpassing €1.2 billion, supported by dedicated regulatory bodies in each member state. The contrast with Algeria's approach — where a single national authority oversees enforcement across all sectors without sector-specific powers — reveals a structural deficit that legislative reform alone cannot resolve; it requires a parallel investment in institutional capacity and regulatory expertise.

The use of the Internet of Things (IoT) in digital marketing further compounds these challenges. Legal experts point out that personal data shared through smart devices is often transmitted without users' knowledge, sometimes across international borders, raising questions about jurisdictional competence that Algerian law has not yet addressed. As (Sidorenko & Arx, 2020)²⁸ observe, even established frameworks such as the GDPR are not fully adapted to the IoT context — a challenge that is considerably more acute in a legal environment where the foundational data protection framework itself remains incompletely implemented.

B) Legislative Compliance: Between Legal Rigor and Practical Reality

The provisions of Law No. 05-18 on electronic commerce reveal a legislator committed to formal legal rigour: Article 30 mandates full disclosure of commercial identity, Article 31 prohibits misleading practices, and Article 32 regulates affiliate marketing arrangements. Taken together, these provisions establish a normatively demanding framework that compares favourably, at least on paper, with more established regulatory systems. Yet the distance between legislative intent and commercial practice remains wide. A field study by (Argabi, Salhaoui, & Hamdi, 2024)²⁹ on 120 Algerian e-commerce companies found that 45% do not fully comply with these requirements — a compliance gap attributable not to deliberate evasion, but to the ambiguity of the provisions themselves and the absence of implementing guidance from competent authorities.

This observation invites a comparison with the U.S. approach under the CAN-SPAM Act — the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 — which establishes national standards for the sending of commercial emails and emphasises three core obligations: the necessity of including an unsubscribe option, the prohibition of misleading subject lines, and the disclosure of the marketing nature of the message (FEDERAL TRADE COMMISSION; PROTECTING AMERICA'S CONSUMERS, 2025)³⁰. (Johnson & Robertson, 2023)³¹ describe this system as embodying a "notice and correction" philosophy: rather than imposing immediate sanctions, businesses are provided an opportunity to remedy violations before penalties apply, thereby creating a more commercially viable compliance environment without sacrificing consumer protection. The Algerian model, by contrast, combines prescriptive obligations with weak enforcement mechanisms — a combination that produces neither genuine compliance nor meaningful deterrence. Closing this compliance gap requires regulatory guidance that clarifies obligations in practical terms — an approach closer to the notice-and-correction philosophy of the CAN-SPAM Act than to Algeria's current prescriptive model.

C) Intellectual Property Protection: The Gap Between Law and Practice

Intellectual property violations in the digital marketing environment represent a growing and inadequately addressed challenge in Algerian law. The Algerian Chamber of E-Commerce (2023)³² recorded a 35% increase in complaints related to digital content theft compared to 2022 — a trend that reflects both the expansion of digital commercial activity and the persistent inability of the legal system to respond effectively to it. Although Ordinance No. 03-06 on trademarks provides

theoretically robust protection, research by (LOUAR, 2023)³³ identifies several structural obstacles that prevent this formal protection from translating into practical enforcement: a legislative gap between intellectual property law and the pace of technological development, difficulty in monitoring and tracking violations in the digital environment, slow judicial procedures, and limited legal awareness among start-ups and SMEs.

These obstacles are not merely technical; they reflect a deeper problem of legal design. Intellectual property legislation in Algeria was conceived for a pre-digital commercial environment, and its application to the dynamics of digital marketing — where content is reproduced, modified and distributed at scale across multiple platforms — requires interpretive and institutional adaptations that have not yet been made. The contrast with the European system is illuminating: Directive 2004/48/EC provides for immediate takedown notices, estimated damages compensation, and structured cooperation with online intermediary platforms — mechanisms whose absence in the Algerian context leaves rights holders without effective remedies and creates a commercial environment in which digital content exploitation operates largely without legal consequence.

III. Legislative Issues Posed by Electronic Commerce Law No. 18-05.

Law No. 05-18 on electronic commerce represents a significant legislative step in Algeria's effort to regulate the digital economy, yet a close reading of its provisions reveals a structural omission that fundamentally limits its effectiveness as a regulatory instrument: the law contains no coherent framework for the taxation of digital transactions. The significance of this omission should not be underestimated. In an e-commerce environment where annual global digital sales have reached 25.3 trillion, the absence of clear tax obligations for online commercial operators constitutes a direct challenge to fiscal equity, undermining the principle that equivalent economic activities should attract equivalent fiscal treatment regardless of the medium through which they are conducted.

International regulations have increasingly sought to address this challenge. Jurisdictions participating in the OECD's Base Erosion and Profit Shifting (BEPS) framework have developed mechanisms requiring digital commerce participants to disclose income sources, transaction values, and residency status — obligations that Algeria has not yet translated into its domestic legal order. The debate over whether to tax e-commerce transactions has historically been framed around two competing arguments: the first holds that taxing online transactions risks stifling technological innovation and placing domestic platforms at a competitive disadvantage; the second — and, in the present author's view, more compelling — contends that exempting digital commerce from taxation results in unjustifiable revenue loss for the state and creates a structural advantage for e-commerce operators over traditional merchants. The global regulatory trend has decisively moved toward the second position, with the EU's VAT rules for digital services and the proliferation of Digital Services Taxes in multiple jurisdictions reflecting a shared recognition that fiscal neutrality between digital and physical commerce is both achievable and necessary.

Against this backdrop, Algeria's position is particularly difficult to justify. Law No. 05-18 was enacted at a time when the taxation of digital services had already become a pressing policy issue in numerous legal systems. The legislator's failure to specify how and when taxes should be imposed on digital transactions — and to address the treatment of foreign platforms offering services to Algerian consumers — leaves the legal framework incomplete in a commercially significant respect. As (HAMRI & HAMRI, 2021)³⁴ observe, this lacuna not only undermines the principle of fairness in taxation, but also creates an environment in which some goods traded online escape the customs procedures routinely applied to traditional commerce, to the direct detriment of domestic operators who bear the full weight of fiscal obligations.

The comparative dimension of this problem is illustrated in **Table 4** below, which juxtaposes the digital legislative frameworks of Algeria, Saudi Arabia, Egypt and the UAE:

Table 4. Comparative Table of Digital Legislation in Algeria and Some Arab Countries

Statement	Algeria	Saudi Arabia	Egypt	UAE
Year of Issuance of the First Law	2005 (Signature Law - Electronic)	2007	2004	2006
Data Protection Law	Yes (partial)	Yes	No (under preparation)	Yes
Electronic Commerce Law	Yes	Yes	Yes	Yes
Regulatory Authority	Ministry of Digitalization	Communications and Information Technology Commission	Ministry of Communications	Telecommunications Regulatory Authority

Source: (UNESCWA, 2024)³⁵

The data reveals that while all four jurisdictions have enacted e-commerce laws, there are significant disparities in institutional structure and regulatory scope. Algeria issued its first electronic law in 2005, focusing on digital signatures, while Egypt (2004), the UAE (2006), and Saudi Arabia (2007) adopted more comprehensive frameworks early on. Data protection laws are in place in the UAE, Saudi Arabia, and partially in Algeria, while Egypt's remains under preparation — highlighting a critical gap in personal data security across the region. Institutionally, the UAE, Egypt, and Saudi Arabia rely on specialised telecommunications or IT authorities, whereas Algeria delegates this function to the Ministry of Digitalization — suggesting significant room for structural optimisation. To align with regional and international best practices, Algeria must not only specify the conditions for taxing digital transactions, but also reconsider its institutional architecture to ensure that regulatory authority over digital commerce is vested in a body with the technical expertise and operational independence to exercise it effectively.

IV. Statistical Evidence of Legal Gaps in Algeria's Digital Marketing Regulation

Doctrinal and comparative analysis alone cannot fully measure the practical consequences of regulatory deficiency. The statistical data examined in this section provides that empirical dimension, quantifying the scale of digital commercial activity that currently operates without adequate legal oversight, drawing on statistical data from national and international sources to quantify the scale of digital commercial activity that currently operates without adequate legal oversight. This empirical dimension does not constitute a separate methodological objective; rather, it serves to translate the abstract identification of regulatory deficiencies into concrete, measurable terms — thereby strengthening the case for legislative reform.

A) Growth Indicators in the E-commerce Market

The pace of e-commerce expansion in Algeria provides the essential context for assessing the adequacy of the existing legal framework. Recent data from (Statista, 2024)³⁶ indicates a significant acceleration in global e-commerce growth, projecting the market to reach \$6.3 trillion by 2024, with a Compound Annual Growth Rate (CAGR) of 14.7% between 2021 and 2024. In the Arab context, a study by Al-Sabahi (2023) ³⁷reveals that the Arab e-commerce market experienced 35% growth in 2022 alone, with spending expected to reach \$28.5 billion by the end of 2023. In Algeria specifically, the National Centre for Commercial Registration (2023)³⁸ reports that the number of registered e-commerce stores increased from 1,200 in 2020 to 3,800 in 2023, that e-commerce sales grew by 42% during 2022, and that 68% of these sales occurred through social media platforms — the very channels whose regulation, as demonstrated in Section II, remains most deficient under current Algerian law.

These figures acquire particular legal significance when read alongside Table 5, which records the growth of electronic transactions from 150,000 in 2020 to 470,000 in 2023 — a threefold increase in four years. The legal implication of this growth trajectory is direct: the volume of digital commercial transactions now substantially exceeds the regulatory capacity of a framework designed, in its essential architecture, for a far more modest digital economy. This growth trajectory, however, has not been accompanied by corresponding regulatory development. As the data in Table 5 confirms, the legal framework governing these transactions has remained essentially unchanged since 2018 — a period during which the volume of digital commercial activity has more than tripled.

Table 5 : Number of Electronic Transactions Registered in Algeria (2020–2023)

Year	Number of Electronic Transactions	Growth Rate (%)
2020	150,000	-
2021	230,000	+53%
2022	310,000	+34%
2023	470,000	+52%

Source : (Datareportal, 2023)³⁹

B) Statistics on Violations and Security Concerns

The identification of obstacles to digital policy implementation provides a necessary institutional context for understanding why Algeria's legal framework has failed to generate adequate compliance outcomes. A survey by the (Pathways for Prosperity Commission., 2020) invited respondents to identify the primary challenges hindering the achievement of specific policy priorities. The results, presented in **Table 6** below, reveal that political obstacles are the dominant barrier in five key domains: privacy and data protection (47.37%), disinformation (72.22%), market competition (62.16%), intellectual property (41.67%), and digital taxation (60.87%).

Table 6: Main Obstacles Identified for Each Group of Policy Priorities

Policy Priorities	Lack of funding or resources	Political obstacles	Bureaucratic obstacles	Technical obstacles	Lack of international cooperation
Jobs and skills	65.82%	31.65%	24.05%	20.25%	11.39%
Privacy & data protection	22.37%	47.37%	21.05%	42.11%	23.68%
Telcom & Infrastructure	60.27%	27.40%	34.25%	28.77%	12.33%
Data sharing	22.67%	37.33%	45.33%	46.67%	18.67%
Cybersecurity	38.24%	32.35%	11.76%	45.59%	32.35%
Disinformation	9.26%	72.22%	11.11%	48.15%	14.81%
Market competition	8.11%	62.16%	40.54%	8.11%	21.62%
Intellectual property	16.67%	41.67%	29.17%	29.17%	25.00%
Taxation of digital assets	8.70%	60.87%	21.74%	21.74%	34.78%

Source: (Pathways for Prosperity Commission., 2020)⁴⁰

Financial constraints dominate in employment and infrastructure-related priorities, while technical challenges are most acute in data sharing (46.67%) and cybersecurity (45.59%). The legal significance of these findings is substantial: they suggest that Algeria's regulatory underperformance is not primarily a function of resource scarcity or technical incapacity, but of political will — a diagnosis that fundamentally shapes what kind of reform is needed and who must drive it. Notably, respondents identified the European Union (60%) and Estonia (51%) as the leading models of effective digital governance, confirming that the comparative framework adopted in this study reflects the priorities of practitioners, not merely academic preference..

To better understand international influences, the survey also invited participants to identify which countries they regarded as exemplary in shaping technology policy relevant to their national context. From a predefined list, the European Union (60%) and Estonia (51%) emerged as the top models, followed by India (23%), the United States (22%), Rwanda (17%), and China (15%). Interestingly, experts tended to favor countries from their own geographical region. For example, sub-Saharan African respondents were significantly more likely to cite Rwanda (50%) as a model compared to experts from other areas (6%).

Consumer-level data provides a complementary layer of empirical evidence, quantifying the human cost of regulatory failure. A study by (McClain, Faverio, Anderson, & Park, 2023)⁴¹ highlights that 62% of global consumers are worried about the misuse of their personal data, 45% avoid purchases from sites lacking clear data protection certifications, and 38% have experienced some form of violation during online purchases. In the Arab world, (UNESCWA, 2023)⁴² research reveals that 55% of Arab users do not read privacy policies, 72% of Arab platforms do not fully comply with data protection requirements, and only 28% of reported cases result in actual penalties. Read directly against the provisions of Law No. 07-18, which has been in force since 2018 and prescribes penalties of up to 200 million DZD, these figures expose a profound enforcement deficit that requires institutional, not merely legislative, remedy.

The distribution of digital legislation in Algeria, presented in **Table 7** below, confirms this diagnosis at the systemic level:

Table 7: Distribution of Digital Laws in Algeria by Topic (2023)

Type of Law	Percentage (%)
E-commerce	30%
Data Protection	25%
Cybersecurity	20%
Digital Signature	15%
Artificial Intelligence	10%

Source: (Datareportal, 2023)⁴³

E-commerce laws account for 30% of digital legislation, data protection 25%, cybersecurity 20%, digital signatures 15%, and artificial intelligence a nascent 10%. While this distribution reflects a reasonable ordering of legislative priorities, it reveals the complete absence of sector-specific regulation for digital marketing — the very area generating the most acute legal challenges in practice. Closing this regulatory gap requires not only additional legislative output, but a coherent regulatory strategy that coordinates existing instruments into a unified and enforceable framework for digital commercial activity.

C) Analysis of Regional Variations in Digital Trust Indicators

Data from the (Organisation for Economic Co-operation and Development, 2023) shows significant regional disparities in digital trust: Northern Europe records 78% trust in digital protection mechanisms, North America 65%, Arab countries 42%, and Sub-Saharan Africa 35%. Algeria's position within the Arab regional average is further specified by (DIAFI & HARROUCHE, 2023)⁴⁴: 58% of Algerian consumers prefer cash on delivery due to security concerns, 47% have encountered online fraud in the past year, and 63% are unaware of how to report digital violations. These figures are not merely indicators of consumer behaviour; they are legal evidence of a regulatory failure. A legal framework that effectively protected consumers' digital rights would generate higher levels of trust and lower levels of fraud exposure. The persistent preference for cash on delivery — in a context of rapid digital commercial expansion — reflects a rational consumer response to the absence of effective legal guarantees for online transactions and constitutes a quantifiable drag on the development of Algeria's digital economy.

For shoppers using the global information network, commercial fraud, product authenticity concerns, and delivery uncertainties remain significant barriers to digital commerce adoption. It is expected that mobile commerce will continue to grow, with purchases made via smartphones projected to reach around 70% of all e-commerce transactions (Mahmoud & Abdel-Salam, 2023)⁴⁵ — a development that will further amplify the legal stakes of the regulatory gaps identified in this study.

V. Legislative Update: Towards a Flexible Legal System

Algeria's regulatory framework for digital marketing requires more than piecemeal legislative correction. The deficiencies identified — in legislative design, institutional capacity, and enforcement — are systemic, and the reforms proposed here are structured accordingly. Preceding analysis and around four interconnected dimensions: legislative modernisation, institutional strengthening, digital legal literacy, and international regulatory cooperation. Taken together, they constitute a reform programme designed to transform Algeria's current framework — characterised by fragmentation, enforcement weakness, and technological obsolescence — into a coherent, adaptive, and internationally credible legal order for the digital economy.

A) Legislative Modernisation: Embracing Technological Neutrality and Adaptive Regulation

The most fundamental legislative deficiency identified in this study is the absence of provisions capable of addressing the digital technologies that currently drive commercial activity. A modernised legal framework must explicitly address the use of artificial intelligence in marketing analysis — as proposed by the World Economic Forum (2023)⁴⁶ — machine learning technologies in advertising personalisation, and blockchain systems for digital identity verification. These are not prospective concerns; they are present commercial realities operating in a regulatory vacuum under current Algerian law.

Beyond the inclusion of specific technologies, Algeria must adopt what regulatory theory designates as an **Adaptive Regulation** approach — a legislative model that institutionalises responsiveness rather than treating it as exceptional. Concretely, this requires: a biannual review mechanism for digital legislation, ensuring that legal provisions are tested against technological developments on a regular cycle; the establishment of specialised technology units within the judiciary, capable of interpreting and applying legal norms in technically complex digital contexts; and the adoption of **Regulatory Sandboxes** — controlled experimental environments in which new digital business models can operate under supervised conditions before comprehensive regulatory frameworks are enacted. This last instrument has proven particularly effective in jurisdictions such as the United Kingdom and Singapore, where it has enabled regulators to develop evidence-based rules without stifling innovation. Its adoption in Algeria would represent a qualitative shift in the relationship between law and digital commerce — from reactive prohibition to proactive governance.

B) Strengthening Oversight: Towards a Comprehensive Supervision Model

Effective legal regulation of digital marketing requires not only well-designed legislative provisions, but the institutional architecture to enforce them. This study's comparative analysis consistently reveals that the enforcement gap in Algeria is primarily institutional, not normative. Addressing it requires coordinated action across three dimensions.

At the **institutional dimension**, the priority is the establishment of an independent national digital regulatory authority — modelled on the Saudi Data and Artificial Intelligence Authority (2022) and France's dedicated digital enforcement mechanisms — with a mandate that spans data protection, digital advertising oversight, and e-commerce compliance. This body must possess operational independence from ministerial direction, sector-specific technical expertise, and sanctioning powers commensurate with the scale of digital commercial activity it oversees. Alongside

this, the creation of specialised digital public prosecutors — following France's pioneering experience — would provide the judicial complement necessary for effective enforcement.

At the **technical dimension**, the regulatory authority must be equipped with smart monitoring systems capable of processing digital commercial data at scale, supported by violation reporting platforms modelled on the EU's established reporting infrastructure. The gap between reported violations and actual sanctions — documented at 28% in the Arab region by UNESCWA (2023)⁴⁷ — cannot be closed through legislative amendment alone; it requires investment in the technical capacity to detect, investigate, and prosecute digital commercial violations systematically.

At the **collaborative dimension**, regulatory effectiveness depends on engaging the private sector through structured self-regulation programmes and activating the role of professional associations in setting and enforcing industry standards. Experience in more mature digital regulatory environments demonstrates that co-regulatory frameworks — in which industry bodies develop codes of practice under regulatory supervision — consistently outperform purely state-directed enforcement in domains characterised by rapid technological change.

C) Digital Legal Literacy: A Precondition for Effective Regulation

Legal frameworks, however well-designed, cannot function effectively in a society where the population they are intended to protect is largely unaware of the rights and obligations they establish. The finding by DIAFI and HARROUCHE (2023)⁴⁸ that 63% of Algerian consumers are unaware of how to report digital violations is not merely a social concern — it is a legal one, because it effectively nullifies the deterrent and compensatory functions of consumer protection law.

A national digital awareness strategy must therefore be treated as a component of the regulatory framework, not a peripheral complement to it. Such a strategy requires coordinated action across three channels. In terms of **content**, this means developing digital legal education curricula integrated into the national education system from secondary to university level (Global Education Monitoring Report, 2023)⁴⁹, alongside awareness materials produced in accessible language and multimedia formats. Cyber law education serves multiple regulatory functions simultaneously: empowering citizens to safeguard their personal data, increasing voluntary compliance with legal standards, and reducing the population's vulnerability to cyber threats — thereby reducing the enforcement burden on regulatory institutions (Edicts Editorial Staff, 2025).⁵⁰ In terms of **channels**, digital influencers and social media platforms — the primary vectors of digital commercial activity in Algeria — should be actively engaged in disseminating legal awareness, leveraging the reach of the very channels whose regulation this study has advocated. In terms of **evaluation**, awareness campaigns must be subject to rigorous impact assessment through Key Performance Indicators and periodic surveys measuring actual change in legal literacy levels — not merely campaign reach.

D) International Regulatory Cooperation: From Isolation to Integration

Algeria's regulatory challenges in the digital domain are not unique, and the solutions to many of them have already been developed in international and regional frameworks. The country's current level of engagement with these frameworks — limited in scope and largely passive — represents a missed opportunity for regulatory learning, institutional capacity-building, and market credibility.

Concretely, Algeria should pursue accession to the Budapest Convention on Cybercrime and active engagement with the UN Digital Cooperation Framework, both of which would provide binding normative anchors for domestic legislative reform and access to the technical assistance

programmes that accompany participation. At the regional level, the establishment of centres of excellence for digital regulation — modelled on the Dubai Cybersecurity Centre — would create shared institutional resources and reduce the per-country cost of developing the technical expertise that effective digital oversight requires. Active participation in the Global Data Protection Policy Forum and the Global Privacy Enforcement Network (GPEN) would further position Algeria within the international regulatory community, signalling to both domestic and foreign digital operators that the country is committed to meeting recognised standards of digital governance. Beyond reputational considerations, active engagement with these frameworks would provide Algeria's digital operators with greater legal certainty in cross-border transactions — a practical benefit that domestic legislative reform alone cannot deliver.

Conclusion:

This study set out to examine the legal framework governing digital marketing tools in Algerian e-commerce through a doctrinal and comparative approach supported by empirical statistical evidence. Its findings converge on a single overarching conclusion: the existing regulatory architecture is structurally inadequate to the commercial reality it purports to govern. The analysis conducted across five interconnected dimensions — the legal categorisation of digital marketing tools, the challenges of legal compliance and enforcement, the legislative gaps in Law No. 05-18, the empirical evidence of regulatory failure, and the reform pathways available to the Algerian legislator — consistently reveals the same pattern: legislative provisions that are either absent, ambiguous, or insufficiently enforced to produce meaningful commercial and consumer outcomes.

At the legislative level, the analysis confirms that Algerian law lacks precise definitions of the digital marketing tools most widely used in e-commerce — including search engine advertising, influencer marketing, and targeted content promotion — a deficiency documented by (Generis Global, 2024)⁵¹ in his analysis of recent legal reforms in Algeria. This definitional vacuum is not a technical shortcoming; it is a structural impediment to enforcement, since regulatory authorities cannot effectively sanction conduct that the law has not adequately described. The comparative analysis further reveals that Law No. 05-18, despite its formal prescriptions, contains no coherent framework for the taxation of digital transactions — a deficiency that creates both fiscal inequity and competitive distortion between domestic and international digital operators. As MALAOUI (2024)⁵² observes in his analysis of the Algerian system, and as the comparative data presented in this study confirms, the European experience of periodic legislative revision — institutionalised in Article 97 of the GDPR — offers a regulatory model whose adoption in Algeria would represent a qualitative shift from reactive to anticipatory legal governance.

At the implementation level, the study documents a persistent and quantifiable gap between the formal requirements of Algerian digital law and their practical application. Algeria's ranking at 112th in the World Bank's Digital Readiness Index (2023)⁵³ reflects not only infrastructural limitations, but a broader failure to invest in the institutional capacity — trained inspectors and specialised prosecutorial capacity, without which even well-designed legislation cannot be effectively applied — without which even well-designed legislation cannot be effectively enforced. The 28% rate at which reported digital violations result in actual penalties, documented by UNESCWA (2023)⁵⁴, measures the scale of this enforcement deficit with particular precision.

In comparative perspective, European and American regulatory models demonstrate that effective digital governance requires more than legislative output: it demands coherent institutional architecture, clear liability rules, accessible enforcement mechanisms, and a regulatory culture in which compliance is incentivised rather than merely mandated. Algeria's current framework —

characterised by ministerial oversight rather than independent regulatory authority, by general legislative provisions rather than sector-specific rules, and by punitive sanctions rather than compliance-oriented guidance — falls short of these requirements in each dimension. The statistical evidence presented in Section IV reinforces this comparative diagnosis: the trust deficit, the fraud exposure rates, and the legislative distribution gaps documented in this study are not isolated data points, but mutually reinforcing symptoms of a regulatory system that has not kept pace with the digital economy it is intended to govern.

The reforms this study recommends are therefore both in the content of legislation and in the capacity of the institutions responsible for applying it. At the legislative level, the priority is to enact sector-specific provisions governing digital advertising, influencer marketing, cross-border digital services, and the taxation of digital transactions — supplemented by an adaptive regulation mechanism ensuring periodic legislative review. At the institutional level, the establishment of an independent digital regulatory authority, the creation of specialised digital public prosecutors, and the adoption of smart enforcement systems would provide the operational foundation that effective compliance requires. These structural reforms, pursued in conjunction with a national strategy for digital legal literacy and deepened engagement with international regulatory cooperation frameworks — including the Budapest Convention, the OECD digital governance frameworks, and the Global Privacy Enforcement Network — would provide the legal and institutional foundations without which Algeria's digital economy cannot develop on terms that are sustainable and commercially credible.

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