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THE ROLE OF THE STRICT CIVIL LIABILITY IN CONSUMER PROTECTION AND THE NEED FOR ITS APPLICATION IN THE ADVERTISING FIELD

Mohammed El Dessouky

Associate Professor of Civil Law
Dean of Faculty of Law - Al Falah University, Dubai, UAE
E-mail: col@afu.ac.ae

Hassan Mustafa

Assistant Professor Of New Digital Media
Dean Of Massa Communication College – Al Falah University, Dubai, UAE
E-mail: comc@afu.ac.ae

Abstract

In this paper, we discuss the role of strict liability in consumer protection, in terms of reviewing the basis of substantive responsibility and reviewing many of its applications in this field. To extend their scope to civil liability in advertising. Accordingly, we will show the contemporary legislative direction to extend the strict liability in many areas with a view to protecting members of society from harm that may affect them, by recognizing their right to compensation without requiring the fault of the defendant, with the creation of financial resources allocated for this purpose, such as compensation For damages associated with medical treatment, compensation for damage caused by defective products, and the responsibility of the air carrier for the safety of passengers. Thus, we will focus on TV channels ads as well as new media technologies advertisement methods and the responsibilities of adviser or provider and how regulations could adapt to these new innovated ads techniques. The research has two parts, first part related to the law perspective point of view, the second one is related to the media advertisement field.

Keywords: *Compensation, strict liability, civil liability, Advertisement, Consumer, Social Media, Fashionista.*

1. Introduction

Civil responsibility has been and remains one of the most important and vital issues of civil law, the importance of it may be due to its connection to an extremely sensitive issue of compensation for damage, The latter is truly the cause of every evolution of the civil liability system from ancient times to the present day.

The evolution of civil liability, Was due to its attempt to keep pace with the evolution of human civilization since the nineteenth century, Civil responsibility has not been in the past before the image that it is in the modern era, where it has gone through the stages of

development has developed radically, and is still evolving, though, until it reached what it is now.

Although it is no secret that the twentieth century witnessed a significant expansion in many forms of damage that compensates the owners on a non-erroneous basis, enough damage to the right to compensation and the expansion of collective liability applications and the increasing role of social solidarity and hence the role of the state. In this regard.

This is due to the inadequacy of fault as a basis for civil liability in pursuing the increase in the number of physically injured as a result of the spread of the machine and the overlap of aspects of human activity and the frequency of the resulting incidents and the difficulty of proving the fault in most cases.

It should be noted that some regional organizations have recommended the expansion of strict liability applications, which have had the greatest impact on the direction of the national legislator to introduce new laws or amend existing legislation.

One of the most important applications of strict liability, which presages that the coming era is the age of strict liability, at least in terms of the damage to human life and safety: the Directive of the Council of the European Community on 25 July 1998 to Member States with a view to bringing the legislative, (The liability for defective products), and the most important characteristic of this guidance is that the responsibility of the producer of the defective item even if there is no fault.

This directive also recommended the unification of the liability system. There is no difference between the liability of the contract and the tort liability, where the responsibility of the producer is that the injured person is a contractor or is not contracted. Responsibility under this directive is a unified responsibility.

It is worth noting that the European Council Member States have been given a period of three years to apply it in their domestic laws. Despite the delay of the French legislator in issuing the Consumer Protection Law in accordance with the provisions of the Directive, approximately ten years after the period specified in the Directive of the European Council,

If the world situation is as such for the increasing role of responsibility based on objective, the same applies to the domestic law of many countries of the world, although the degree of difference, where the different role of the responsibility in the substantive compensation for damages resulting from the attack on life and safety

Civil responsibility has been and remains one of the most important and vital issues of civil law, The importance of it may be due to its connection to an extremely sensitive issue of compensation for damage, The latter is truly the cause of every evolution of the civil liability system from ancient times to the present day.

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It is important to point out that some of the laws of the Arab countries that have been affected by the Islamic legal system - such as the United Arab Emirates and Jordan - have organized civil liability in a way that has demonstrated objectivity. The law obligates the perpetrator of the act even if he is non-discriminatory in compensation as long as he has money to compensate the victim.

The remaining of this research paper is divided into three sections. Section 2 discusses the contemporary applications of the strict civil liability, the strict liability in the French law, the compensation through Non-fault-based liability, establishment of guarantee funds, and two models of strict liability in international conventions. Section 3 studies the need for applying the strict liability for consumer protection in advertising field. Final section provides the conclusion.

2. Contemporary applications of the strict civil liability

In this paper, we will explain some of the applications of strict liability, which will show the trend of contemporary legislation to the forms of civil liability to the collective and not individual responsibility and substantive responsibility - which is close to the guarantee - and not the responsibility that is necessary for the defendant to commit a fault, and we address this development in both: French law as a model for the contemporary laws that are witnessing a continuous and tremendous development, the subject of this research, as well as two models of international conventions in which the extent to which the substantive responsibility is devoted.

2.1 the strict liability in the French law

The French law has long been concerned with the unfair effects of fault-based liability. There has been a major development in this regard, thanks to the use of the judiciary to explain texts and theories that explain the departure from the established rules of responsibility, The incident of the victim and the relationship of causality between them, as a result of the proliferation of the machine and the consequent number of incidents in which it is difficult to rate the fault to the defendant. On the other hand, as a result of the conditions in which the injured person may be deprived of his right to compensation for not knowing the defendant or the latter is financially unable to pay compensation to the victim, the trend of collective responsibility in return for individual liability has emerged to reduce the negative consequences of liability.

It is well known that the judiciary in France has played a large role by interpreting the legal texts in the pursuit of the evolution of the society, which is the increase in the risks of the various activities due to the expansion of the use of the machine, Between the damage caused to the victim and the fault of the defendant, and may be difficult to determine the responsible for the fault as a result of the overlap of a number of factors in the damage, starting from the assumption of the employer's fault and guard the thing and through the theory of liability, the French law reached the civil liability for the compensation of the injured without requiring occurrence fault of Defendant.

A number of laws have been enacted, the main aim of which is to compensate the injured persons without the fault of the defendant, and the security funds have been established to fill any shortage in the protection of the injured as a result of the assault on their lives or the safety of their bodies.

2.1.1 Compensation through Non-fault-based liability:

As a result of jurisprudence and judicial efforts, the French legislator has enacted several laws that would guarantee real legal protection to those affected as a result of attacks on their lives or safety.

1. On April 9, 1898, the Law on Compensation for Work Accidents, which marks the

beginning of the real shift towards legal protection in the face of occupational hazards, was changed. Under this law, the concept of liability changed so that compensation was based on considerations related to injury to the worker rather than to the behavior of the employer. The provisions of this law have also been characterized by the transfer of compensation for injury to the worker from the individual concept of responsibility to the framework of the social concept of risk guarantee. The right to compensation - in accordance with the provisions of Article 1 of the said law - provides for every injury suffered by the worker due to or on the occasion of the work unless the worker Injury himself or unless his fault reaches the wrong rank is not forgiven.

2. In 1905, the French legislator strengthened the compensation guarantee by imposing compulsory insurance on employers and at the same time determining the right of the injured worker to return directly to the insurance company.⁽¹⁾

The laws relating to the protection of the injured as a result of the work accidents, Compensation of the injured in the field of work accidents is based on consideration of objectivity, so that it is considered primarily to the damage caused to the worker and not to the employer's fault.⁽²⁾

3. The wide range of areas where the right of the injured person to compensate for the damage caused to his life and the safety of his body, the area of traffic accidents is feared. This right is opposed to several difficulties that may result in the loss of the rights of the victims due to several factors, And the damage suffered by the injured as a result of the overlap of several factors in causing such damage, including the fault of the same victim, Therefore, the legislator, motivated by the desire to protect the injured, intervened as the source of Law No. 677 of 1985, known as the Law of 5 July 1985 on the compensation of those injured in traffic accidents.

The most important characteristic of the provisions of this law is that the basic condition for obtaining compensation for the injured person is to prove that the damage caused by a road accident, intended by road in accordance with the provisions of this law: road, and that the accident must be the result of the intervention of a car powered by a self-propelled motor , And that the responsibility of the guard or the driver of the vehicle that intervened to cause the damage does not preclude proving the fact that - in accordance with the general rules - describe the foreign cause as a force majeure or the action of others or even the fault of the injured, unless this latter fault applies to the description of non - Faucet is inexcusable, and was the only cause of the accident⁽³⁾.

Moreover, the fault of some categories of victims, such as young people, the elderly and

1- **TUNC (A.)**, La responsabilité civile, paris 1981, p.72.

2- On the historical development of work accident compensation see:Hesse (P.J), La genèse d'une loi: de la révolution industrielle à larévolution juridique , Dr. Soc. 1998 – 638; **AUBIN(G.)**, La loi du 9 avril 1898, rupture ou continuité ? ,Dr. Soc. 1998 – 635; **MILET(L.)**, La voies de la réparation intégrale des accidents du travail et des maladies professionnelles, Rev. dr. Soc. Numéro9/10 de septembre-octobre 2002, sur la site: <http://www.a-smt.org/repAT/milet.htm>.

1- **LANDRAUD (D.)**, Remarques sur la faute et l'indemnisation des victimes d'accidents de la circulation, J.C.P. 1985, 1, 3222 ; **LEGIER(G.)**, La faute inexcusable de la victimes d'accidents de la circulation, régi par la loi du 5
Juillet 1985, chron. xv, D. 1986, p. 47.

the disabled, no matter how serious, does not affect their right to compensation in accordance with article 3 of the said law. However, in accordance with article IV, the fault of the injured person is presumed to be the driving of a vehicle at the time of the accident, no matter how serious the fault it commits.

However, although this law is considered as a positive development in the protection of those injured in traffic accidents, ⁽⁴⁾ it also noted a part of the jurisprudence that it did not provide full protection to all categories of victims in this area, due to the inclusion of some provisions that limit the Some categories of victims the right to compensation for damage to their life and physical integrity resulting from such incidents⁽⁵⁾, but this reduces the fact that the insurance companies, through the introduction of a new document, provided full compensation for damages resulting from traffic accidents, the incident⁽⁶⁾.

On May 19, 1998, in accordance with the principles set out in the European Directive, the French legislator promulgated Law No. 389 of 1998 on liability for defective products, which is a huge step towards compensating those affected using defective goods. Ten articles were added to Article 1386 of the French Civil Code⁽⁷⁾.

The most important characteristic of this law is that the right of the injured parties to compensation is not based on the presumption of fault; liability in accordance with it is a non-faulty responsibility, where it is achieved by force of law, and the producer is not exempted from it even if it proves the propriety of his behavior.

On the other hand, The product in accordance with the provisions of this law is realized whether it is related to a contract with the consumer or not, there is no difference between the contractual liability and the tort liability, Accordingly, a broad concept has been adopted in determining the persons subject to the provisions of this law; Article 1386/6 defines the product as: the manufacturer of a complete product, or of some of its components, and the producer of its primary materials. In the product's judgment, it shall be considered: a person who puts his name or trademark on the product, And its importer within the EU.

According to article 1386/7, the producer shall be: the seller, the lessor and the supplier.

2.1.2 Establishment of Guarantee Funds:

This is evidenced by the adoption by the French legislator of the idea of collective responsibility; the multiplicity of funds established for the purpose of compensating those affected in many areas where it is difficult to compensate the injured if civil liability is applied in its traditional form. The aim is to compensate the injured parties without any fault on the part of the defendant or Even in a situation where the defendant is not known. It has established several funds for the purposes mentioned above. Since the success of the accident insurance fund established in 1898 to achieve the purpose for which it was established, there have been numerous security funds covering damage resulting from accidents resulting in an attack on

2- VINEY (G), Responsabilité civile, chro. 1, 187, J.C.P. 1998, p.2216.

3- VINEY (G), Responsabilité civile, chro. 1, 187, J.C.P. 1998, p.2216.

4- TUNC (A.), L'indemnisation des des victimes d'accidents de lacirculationaprès quatre ans d'application de la loi BADINTER, R.I.D.C. 1989, p. 1003.

1- LARROUMENT (CH.), La responsabilité du fait des produits défectueux..., chron. D. 1998, p. 305; GHESTIN (J.), Le nouveau titre IV bis du livre III du Code civile "de la responsabilité du fait des produits défectueux" J.C.P. 1998,I ,148; MALINVAUD (PH.), La loi du 19 mai 1998 relative à la responsabilité du fait des produits défectueu et le droit de la construction, chron. D. 1999, p.93.

human life and safety.

1- Car Accident Insurance Fund:

- In 1951, the Car Accident Insurance Fund was established by Law No. 1508 of December 31, 1951, Article 15 of which provides for the establishment of this fund, which is financed by all insurance companies covering all the risks of civil liability arising from the use of cars. From its establishment to be complementary to the compulsory insurance system when the latter cannot do its part in compensating the injured.

The Fund's activity has expanded over time, with many laws introducing many of the damage caused by road traffic accidents. However, this fund remains a reserve in this area, And the role of the reserve fund would have been affected by the objectivity of the provisions of this law in respect of the indemnity debt. If the insolvency of the driver of the vehicle leading to the accident is no longer required to enter the Fund, after the approval of the compulsory insurance, the insured's insolvency or insufficiency of insurance Or invalidation or termination or suspension of the insurance contract takes the non-insurance ⁽⁸⁾.

2.1.2 Compensation for damage caused by risks associated with the diagnosis and treatment of diseases:

In the course of receiving a medical service, the patient may suffer harm not due to a professional fault but to the risks that may accompany the diagnosis and treatment of the disease⁽⁹⁾. Consequently, the rules of civil liability do not apply to such a case. The French legislator, No. 303 of 4 March 2002, is a means of guaranteeing such damage through national solidarity.

- The National Office for Compensation for Damages resulting from Medical Accidents and Damages Occurred during Treatment and Infection in Hospitals and the Purpose of its Establishment:

The first paragraph of Article L.1142-22 specifies the purpose of this office as it is defined as a public institution under the supervision of the Minister of Health, which is competent to compensate for damages arising from medical accidents, damages during treatment and infections occurring in hospitals within the framework of national solidarity.

Office Formation:

In accordance with the second paragraph of article L.1142-22, this office shall be administered by an administrative board to be formed by a decision of the French Council of State. Half of the members of the Council shall be representatives of the State, the other half shall be representatives of persons dealing with medical services, These entities, and representatives of the insurance companies of diseases, and in accordance with paragraph 3 of the same article is chaired by the administrative board head of the office, which is appointed by a formal decision.

1- **CHARTIER (Y)**, La loi n° 85-677 , n° spécial, D. 1986.

2- Aléa thérapeutique" " The French Court of Cassation defined these damages as: "the inherent risks of medical work occurring to the patient without any fault by the doctor - or the person performing the medical work - and difficult to control"- Civ. 1ère, 8 nov. 2000, Bull. No 287.

Office income and expenses:

The income of the National Office of Compensation as well as its expenses is determined by income. Income is determined by the third paragraph of that article: the share of the office received from social insurance according to the value determined annually in accordance with the law governing it, the expenses paid for medical expertise, And the outcome of financial penalties determined by the judge against the insurance companies in cases where the sum offered in the case of amicable settlement does not represent full compensation for the injury suffered by the plaintiff and the outcome of the proceedings under which the office replaces the professional or establishment providing health services in cases where Effective payment of the amount of compensation is estimated that civil liability has become available in the professional or facility side.

As for the means of spending the resources of the Office, the second paragraph of article 1142-23 defined the following: compensation paid to victims of medical accidents, damage caused during hospital treatment and infection, the banks required to administer this office as well as the conciliation commissions, And medical experience fees.

Method of compensating the injured:

The method of compensating the injured persons was determined by the National Office. According to the first paragraph of that article, if the regional conciliation commission assessed that the injury suffered by the injured person was compensable, the Office must make a full compensation offer to the victim within four months from the date of receipt of the Committee's opinion. The offer shall be made provisionally if the Office has not been notified of the amount of the final damage suffered by the injured party and the Office is obliged to make a final offer if notified of the final amount of damage suffered by the injured person, in the sense that the damage has settled at a particular situation.

The Office shall be liable to pay the amount of compensation to the injured person within one month from the date of receipt of the injured person's consent to the offer submitted, and the same provision shall apply both in respect of the temporary offer and the final offer.

We conclude from the above: that civil liability in its traditional forms, the individual and the wrong is no longer suitable in the field of compensation for damages related to the life and safety of human and literary ones in particular. The development that took place in modern societies forced the legislator in France and with the judiciary to expand in The objective and collective responsibility is through the issuance of laws that determine the special protection of many groups that are liable to lose their right to compensation if the civil liability is carried out in their traditional form. This is due to several factors, including the difficulty of identifying the person responsible for the damage, , Or to covet G Responsible for compensation performance.

2.2 Two models of strict liability in international conventions

We consider two models of objective liability in international conventions: the distinctive features of civil liability for nuclear damage and responsibility for the carrier's liability for the safety of passengers.

2.2.1 SPECIFIC CHARACTERISTICS OF CIVIL LIABILITY FOR NUCLEAR DAMAGES⁽¹⁰⁾:

The strict liability for nuclear damage is that it is not based on the element of fault on the part defendant, where it is sufficient to entitle the victim to a nuclear damage caused by a nuclear accident, to establish the causal link between the damage caused to the nuclear accident activity and not to prove the operator's fault or negligence Or one of its affiliates.

On the other hand, the operator cannot be responsible for denying any faults on its part, but it is still responsible. It can only dispose of its liability in limited cases and is therefore an absolute objective responsibility.

The importance of this would seem to be: in facilitating the access of injured persons to compensation for their nuclear damage, proving that the fault of the operator of the nuclear facility is, in general, too difficult to prove, and thus sufficient for the liability of the operator, to establish the causal link between the damage and the nuclear accident.

2.2.2 The strict liability of the air carrier for passenger safety ⁽¹¹⁾:

Article 21 of the Montreal Convention 1999 on the Unification of Certain air transport rules sets out two frameworks for the liability of the air carrier for death and physical damage. The basis of liability of the air carrier is different in each of them: first, where the carrier's maximum liability is not more than 100,000 units⁽¹²⁾. The carrier's liability is a strict liability or a non-fault, so that it cannot dispose of this liability even if it proves that there is no default or fault on its part, even if it can prove that there is a foreign cause Is a force majeure, or a fault of others⁽¹³⁾.

Accordingly, we consider the carrier's responsibility in this context - as in the general rules of carrier liability in general - to be based on its obligation to ensure safety, an obligation to achieve a result, and does not alter the widening scope of this obligation by the Convention by making the liability of the carrier absolute or By depriving him of his responsibility to prove the foreign cause, as the carrier's obligation to ensure the safety of passengers, a commitment to achieve a result, remains a form of contractual obligation.

In the second context, where the amount of compensation claimed is greater than SDR 100,000, the liability of the carrier is not limited to a specific cover and can only be discharged by proving that there has been no fault or negligence by one of its subordinates or by a third party , In contrast to the first, in this context the Convention Limits the liability of the air carrier, allowing it to dispose of its liability in the event of damage to the passenger to prove that there was no fault on his part or from one of his subordinates.

We conclude from the foregoing that the basis of the airline carrier's liability for death and

10 - On the Liability of Nuclear Damage, see : El-Dessouqy (M) - Principles of Civil Liability for Nuclear Damage in accordance with UAE law and Vienna Convention on Civil Liability for Nuclear Damage, Dubai Judicial Institute Journal, June 2014 issue.

11 - On the civil liability of the air carrier, see in detail: : El-Dessouqy (M) - Contractual liability of the air carrier for the safety of passengers in accordance with the Montreal Convention 1999 on the standardization of some international air transport rules (comparative study), Journal of Legal Sciences, - June 2013.

12 -The SDR is:A type of international currency; established by the International Monetary Fund, allocated to member states of the Fund. Although these rights are mere computational units, not backed by paper currency or precious metal, they are originally an international reserve and the special rights unit consists of a basket of major currencies: the US dollar, the French franc, the German mark, the pound sterling and the Japanese yen, :SDR (Special Drawing Right).

13 -But he can be excluded from liability by proving fault of the victim.

physical injury under the Montreal Convention (1999) is a breach of its contractual obligation to ensure the safety of passengers, an obligation to achieve a result, but the limits of this obligation vary according to the amount of compensation claimed, If the Fund does not exceed the amount of SDR 100,000, in making its liability absolute or strict, it can only dispose of it by proving the fault of the injured party.

If, on the other hand, the liability of the air carrier is limited by the liability of the air carrier, the Convention has reduced the liability of the air carrier by allowing it to dispose of its liability by proving that it has not made a mistake or One of his followers.

3.0 The Concept of Media Advertisements and laws

3.1 Introduction

Most Countries all over the world working on how to protect consumers from the damage they may be subjected to, through special legislation and the decisions of the executive authorities, hence the issue of consumer protection in this era occupied advanced positions of the world's concerns. Commercial in our contemporary life has gained great importance,

It is almost impossible to pass a day without being exposed to a commercial ads, which have become an regular pattern for producers and traders, and they use all kinds of tricks to advertise the goods and show their advantages and advantages, thus we find specialized companies in these advertisements, exploiting all modern means of magazines, radio, video and audio, internet, mobile services, and others to show their production.

Producers, traders and of course service professionals in commercial advertising have a language to reach the consumer's mind in order to raise it, The companies spend a lot of money on advertising and advertising, and this is their right as long as the place of commercial advertising is legitimate and not contrary to public order, and must not be false, misleading or deceptive, And also include sufficient data and information about the product or service provided, which would create conscious and insightful thinking when applying.

Now there are a lot of TV channels as well as social media platforms and messages which influence directly on taking decisions, providing huge number of products and services without mentioning any exceptions or precautions regarding using them, which may lead to very serious damages Which necessitates the need to develop the laws related to the right of the consumer who is being affected for compensation and identify the responsibility of compensation.

3.2 History

Bhatia (2000) mentioned that Egyptians used papyrus to make commercial messages for selling purposes. And also there are some Commercial messages (somehow) have been found in the ruins of **Pompeii**¹⁴ and Arabia. Lost and found advertising on papyrus was

¹⁴ The famous city in Italy which Largely preserved under the ash, the excavated city offers a unique snapshot of Roman life, frozen at the moment it was buried and providing an extraordinarily detailed insight into the everyday life of its inhabitants. Organic remains, including wooden objects and human bodies, were entombed in the ash and decayed away, making natural molds; and excavators used these to make plaster casts, unique and often gruesome figures from the last minutes of the catastrophe. The numerous graffiti carved on the walls and inside rooms provides a wealth of examples of the largely lost Vulgar Latin spoken colloquially, contrasting with the formal language of the classical writers.

common in Ancient Greece and Ancient Rome. Thus painting for commercial advertising is another manifestation of an ancient advertising form, which is present to this day in many parts of Asia, Africa, and South America. The tradition of wall painting can be traced back to Indian rock art paintings that date back to 4000 BCE.

In the Middle Ages when Europe began to grow there was a wide range of illiteracy they used pictures to show their goods for trading which we can easily consider it a form of advertisements. The first compilation of such advertisements was gathered in Paris (Boutin, 2005).

Then it became a major force in capitalist economies in the mid-19th century, based primarily on newspapers and magazines. In the 20th century, advertising grew rapidly with new technologies such as direct mail, radio, television, electronic in-out door displays then internet and mobile devices and applications.

This brief history proves the strong relation of advertisements with society as it is addressing their interests and desires

3.3 Present and future

As the technological sector underwent exponential growth and advancement, the capabilities of advertisement grew, and become more realistic, deep and distinct in its relation to other sciences such as sociology, communication and sports. beside its own mechanisms that characterize it.

The advertising is an essential part of our daily lives, a guide for consumers guiding them in getting the goods they need. The community consists of consumers, producers, dealers, and sales brokers. Advertising is not an end in itself but a means and the main purpose of its use is to promote goods, now artificial intelligence has become mainstream in the development of social media due to its advantages of automatic data processing, content generating and efficient interaction with customers.

The AI now decide instead of human by gathering the traced information of customer desires and interests and provide it to the producers and companies, so it's being smarter and that may push us to think about future wise.

3.4 The Concepts of Advertisement

According to the Cambridge Dictionary (2019), the Advertisement is : “a picture, sign, etc. that is used to make a product or service known and persuade people to buy it”. Also it's known as “The activity of attracting public attention to a product or business, as by paid announcements in the print, broadcast, or electronic media.” (Free Dictionary, 2019).

There are a lot of other definitions; however I have only these as all definitions concentrate on convincing people to take products.

Based on above meaning of advertisement, the Advertiser is: “An advertiser is a person or company that pays for a product, event, or job to be advertised online, in a newspaper, on television, or on a poster” (Collins Business Dictionary, 2019).

The Cambridge Dictionary (2019) defines it as: “a person or business that pays to advertise a product or service”, The Online Dictionary (2019) defines it as: “to announce or

Pompeii is a UNESCO World Heritage Site status and is one of the most popular tourist attractions in Italy, with approximately 2.5 million visitors every year. Check <https://en.wikipedia.org/wiki/Pompeii>.

praise (a product, service, etc.) in some public medium of communication in order to induce people to buy or use it”.

We can very obviously notice that all the above definitions and others also are not updating their definitions to include all new technologies and communications apps and Artificial Intelligence which provide ads automatically upon request or search tracing.

The Emirati Federal Law No. (24) of 2006 On Consumer Protection, article (1) defines the Advertiser as: “**Whoever advertises or promotes goods or service by using any means of announcement or advertisement**”, here we find the law is very broad in the definition so it could include all present and potential future technologies as well.

3.4.1 *The Consumer*

The main part of advertisement process is the consumer who is being targeted by advertiser, if we look at Cambridge Dictionary it defines it as: “a person who buys goods or services for their own use” thus Wikipedia defines it as: “The consumer is an individual who pays some amount of money or the thing required to consume goods and services produced” (Wikipedia, 2019).

In the Emirati Federal Law No. (24) of 2006 On Consumer Protection, article (1) defines the Consumer as: “Any person who obtains goods or services – with or without charge – to satisfy his personal need or others needs”.

We noticed that all definitions focused on the personal needs only without any mention to profession needs.

3.4.2 *The Consumer Rights*

The Business Dictionary (2019) pointing the consumer rights generally as:

- (1) Right to safety: protection from hazardous goods.
- (2) Right to be informed: availability of information required for weighing alternatives and protection from false and misleading claims in advertising and labelling practices.
- (3) Right to choose: availability of competing goods and services that offer alternatives in terms of price, quality, service.
- (4) Right to be heard: assurance that government will take full cognizance of the concerns of consumers, and will act with sympathy and dispatch through statutes and simple and expeditious administrative procedures.

As most laws, the Federal Law No (24) of 2006 on Consumer Protection, Article (15) also explains the consumer’s rights as:

“Subject to the provisions of the following two Articles hereof relative to the consumer’s rights, every provider shall, immediately upon discovering a defect in the commodity or service that is liable to harm the consumer when using the commodity or utilizing the service in a proper way, inform the Department, the Competent Authorities and the consumer of the potential hazards and the method of preventing them, as determined by the executive regulations hereof”. Also in the article no (7) supports the consumer’s rights to know as it says: “Subject to relevant laws and regulations, the provider shall, when he displays any commodity for trading, affix to the cover or pack of such commodity a conspicuous label containing details about the type, nature and ingredients of the commodity, the product name, the production or packing date, the net weight, the country of origin and the country of export (if any), the manner of use (if possible), the expiry date, and attach a detailed statement within the pack

about the commodity ingredients, specifications, the rules of its use, hazards and any other details in Arabic in the manner determined by the executive regulations hereof.

If using the commodity involves some hazard, such hazard shall be obviously indicated.”

The main issue here is the right of consumer to know about the products and potential harms or side effects and full information about ingredients.

3.4.3 Consumer right on compensation

Based on the above rights granted by laws and regulations the compensation for any harm caused by these products should be raised by default in any humanitarian logic.

However, most laws and regulations limited the compensatory responsibility in the supplier (provider) only without mentioning the others responsibility, in the Federal Law No (24) of 2006 on Consumer Protection, Article (9) says: “The provider shall be liable for any damage resulting from using or consuming the commodity, providing spare parts for durable commodities within a limited period of time and for his failure to provide the guarantees advertised or agreed with the consumer, in conformity with the rules issued by the Minister’s decision. Where a commodity is domestically produced, the producer and the seller shall be jointly liable for the above obligations”.

So there is no indications to others responsibilities such as the advertisers or TV channels or Satellite or websites or social media platform, specially of the misleading ads is anonymous like **“robotics”** on the internet.

3.5 Types of misleading Ads on Media

This part will entail the media ads issues utilising the different communication technologies. The issues that will be established in this part will have their scopes limited to the misleading ads technologies that are used to fool consumers. While it would be possible to utilise the issues presented in other contexts,

3.5.1 Misleading ads on Satellite TV Channels:

By following many TV channels which being specialized on this kind of ads, I discovered a lot of potential harms may hit or affect the consumer’s health and are not obligate to their rights.

In the following I provide some examples of TV channels:

2.5.1.1 Damaa TV:

It belongs to the healer who claims a lot of skills and abilities to heal any kind of disease, starting from headache till cancer.



Image Source: Shot Taken By The Researcher

His products based on honey with unknown ingredients, he has a big canter to receive all cases, and we noticed the phone numbers to call him during providing his show, which another smart method to gain more profits.

3.5.1.2 Shiffa TV:

The name of this channel is (SHIFFA) means in Arabic (medicament) (medical treatment), which directly lead to the purpose (treatment), and in this shot below they claim they cure (**Hepatitis**¹⁵) category B and category C, there is no description of any kind of items they used. Also we noticed the phone numbers to communicate for ordering.



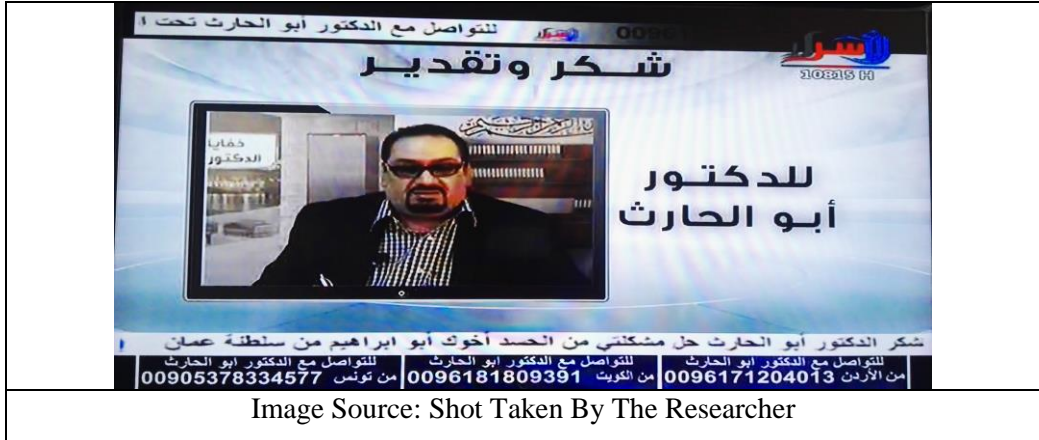
Image Source: Shot Taken By The Researcher

In this shot there are also some agents and asking for more agents in some countries.

¹⁵ Hepatitis is an inflammation of the liver. The condition can be self-limiting or can progress to fibrosis (scarring), cirrhosis or liver cancer. Hepatitis viruses are the most common cause of hepatitis in the world but other infections, toxic substances (e.g. alcohol, certain drugs), and autoimmune diseases can also cause hepatitis, for more information look at WHO site (<https://www.who.int/features/qa/76/en/>)

3.5.1.3 Alasarar TV:

The name of this channel is (ALASRAR) means in Arabic (The Secrets) which directly lead to the purpose (treatment) of any disease whether it is simple or Chronic incurable diseases.



The designation title of this healer is DR. and in this shot it displays the sick people whom being treated by him while they providing their gratefulness to him as a tricky way of ads to convince others.

3.5.1.4 Alkahef TV:

The name of this channel is (ALKAHEF) means in Arabic (The Cave) it provide some mysteries issues related to the psychological disease or something related to the **Spirituality**¹⁶ framework of any disease whether it is simple or Chronic incurable diseases.



¹⁶ it's an experience that involves getting in touch with their spiritual selves through private prayer, yoga, meditation, quiet reflection, or time in nature.

even declared sceptics can't stifle a sense that there is something greater than the physical world they see for more information check psychology today site (<https://www.psychologytoday.com/us/basics/spirituality>).

Here we can see some products of special oils use for treatment process without telling any information about who shouldn't take them due to allergy or other potential harms.

3.6 Social Media Ads

Here we focus on social media importance and how it impact on people decisions through the advertisements rush.

3.6.1 *Important stats of Social Media*

According to Statista (2017), the number of smartphone users in the world is around 2.3 billion, and this number has been increased to 5.11 billion in 2019 according to the global digital report 2019 (digitalreport, 2019). The use of smartphones has become a ubiquitous and constant part of people's lives.

Furthermore, a statistical survey (Hootsuite, 2017) showed that the total number of people using social media on their phones has increased over the years, to where almost 80% of all social media time is spent on smartphones using SNA (Facebook, Twitter, Snapchat, Instagram, etc.) (Marketingland, 2016).

That number is increased and reached by now nearly 50% of global population (digital,2019), that's huge number of users force to conduct many studies which have shown that the overuse of, and addiction to, SNA has resulted in social, ethical, criminal, and health problems (Conal & Gary, 2017; Chia-che, 2016; David & Perez, 2016; Hugues & Hayley, 2015; Valenzuela, Halpern & Katz, 2014). In recent years, businesses have adapted their advertising strategies to the rise in social media use.

With changes in social media mechanism and growing, it has become a lot more challenging for companies to earn organic engagement. Now paid social media advertising has become a necessity for brands that want visibility and results

I add the health problems due to the fake or misleading ads because none of these advertisers doing his obligations towards consumers, and no regulations looking after them as they concentrate on the suppliers only.

3.6.2 *Ads YouTube channels*

YouTube is one of largest video share websites, it is been acquired by Google on 2006 (Mann, 2013) and has a very huge number of users whether they are subscribers or viewers. According to the ALEXA website (leading website in sites ranking) YouTube is No2 (alexa, 2019).

hootsuite (2019) and digital report (2019) conclude the features of YouTube as below points:

- YouTube has 2.0 billion users worldwide.
- 79 percent of Internet users have their own YouTube account.
- You can navigate YouTube in a total of 80 different languages which covers 95% of the Internet population.
- 96 percent of American users between the age range of 18-44 year old accessed YouTube at least once a month.
- Everyday people watch one billion hours of video on YouTube.
- 62 percent of businesses use YouTube as a channel to post video content.
- YouTube mobile ads receive viewer attention 83 percent of the time

- 95 percent of YouTube ads are audible.
- YouTube's video ad revenue was predicted to go up 17 percent in 2018
- YouTube doubled the number of pre-roll ads it shows

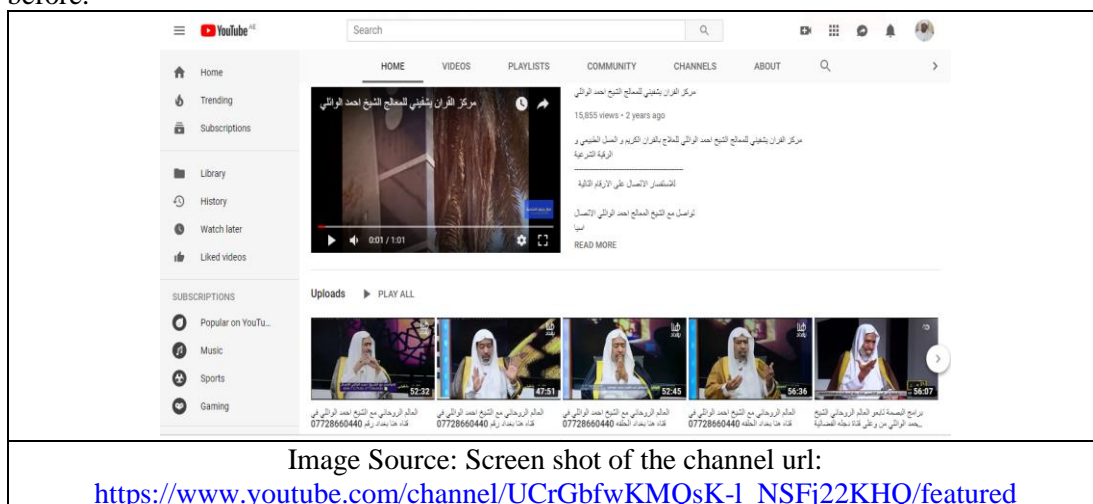
These great features push advertisers to use this platform rapidly and heavily to reach wide range of targets, especially YouTube using videos which will be more convenient to audience.

3.6.2.1 samples of YouTube channels

Most of the TV channels we mentioned previously have their own YouTube Channels as well as Facebook accounts; we give only one example as they are similar in their methods, here are some of them and samples of misleading ads:

3.6.2.1.1 Ahlna YouTube Channel:

It is the same channel of (Damaa TV channel) they provide videos of the healer while treating people with his special abilities additional to his secret products ingredients, you find people claiming that they have been cured and they don't complain of any effects as they were before.



3.6.2.1.2 All about life care YouTube Channel:

This channel provide some syrup products, they teach you how to prepare it, however without telling you any information about these ingredients and how could effect negatively on your health, they stress on a large demand of many people specially women by grabbing their attention with attractive image of losing 10 kg of weight in a month.



Image source: <https://i.ytimg.com/vi/t31mhkAKH9w/hqdefault.jpg>

Then when you browse the YouTube channel they mentioned in the beginning of video how you can easily lose weight without side effects.

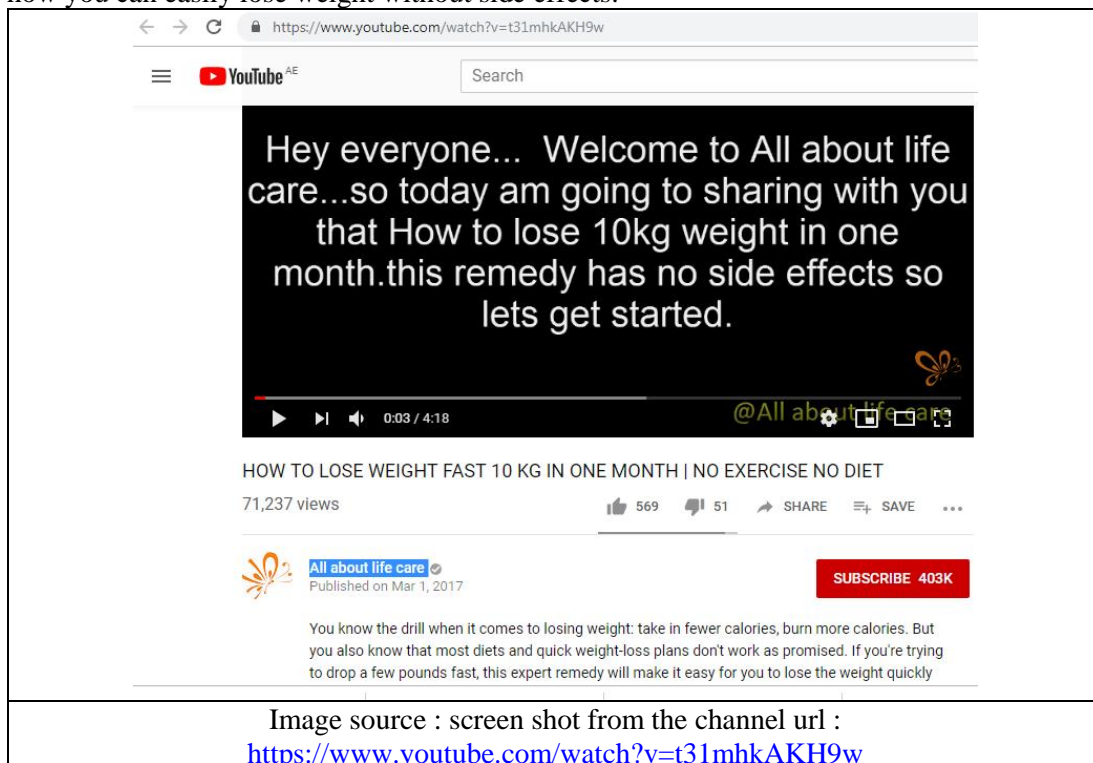


Image source : screen shot from the channel url :

<https://www.youtube.com/watch?v=t31mhkAKH9w>

The funny thing, they claim you don't even need exercise or diet, just drink this magical syrup and you become healthy and fit.

3.6.3 Social Media Stars Ads:

Due Increase number of social media influencers, companies pursuing them to promote their products and yet they fall on the misleading ads which leads to losing their credibility.

Many of the advertisements posted on the social media stars' pages of Instagram and Snapchat have finally lost the trust of followers, as the ad has turned out to be a simple way to make

money, without any moral or social considerations, according to victims. The followers, they confirmed that their celebrities convinced them with products that show them after buying, that the actual specifications are different from what they said about them.

According to Emarat Alyoum Emirati Newspaper a financial expert described some famous Social media stars as «opportunity hunters» who took advertising in their accounts profession, considering the consumer «weak link», being a victim of this type of «fraud» resulting from the consumption of a product does not meet the specifications and standards, stressing the need to apply caveats Social, moral, and censorship stimulate self-conscience when advertising a commodity (emaratalyoum, 2018).

Most ads on social media platforms need credibility. They provide information and conceal other information about the consumer, the main objective gaining money, regardless of the damage to the consumer.

3.6.3.1 Real harm cases of Social Media Ads:

Same report on the above Emarat Alyoum newspaper was hosting a victim lady damaged by using a skin product, a sunscreen, which she bought from a website after she saw ad of social activist **fashionista**¹⁷, explaining that she was very sensitive and irritated to the skin after using the cream, which necessitated her taking medical cure. The treatment lasted several months and paid large sums.

The other famous case is about a famous Saudi Snapchat activist who has been referred to investigation and public prosecution for a misleading announcement, due to a notification from a consumer about the ad of the products of a bottled water factory through Snapchat, and found that it includes misleading health and nutrition claims to consumers (Alarabiya TV, 2018). The ad was including allegations that drinking a certain type of bottled water, helps in the treatment of a number of chronic and intractable diseases, such as cancer, blood pressure, diabetes and joint pain.

3.7 Ethical Issues

This part will entail the ethical issues utilising the ads technologies described in the previous parts. The issues that will be established in this part will have their scopes limited to the ads technologies that are mentioned in the paper. While it would be possible to utilise the issues presented in other contexts, this paper will not attempt such an endeavour but will instead provide recommendation or suggestions into other avenues of investigation based on the current findings presented in this paper.

The advertisements published by the stars and celebrities on Social Media do not have the right way to advertise, due to the lack of the basic elements of the ads, as they desperate in order to convince the followers of their content, and exaggerate praise, and most of their concern is to collect money, wealth and fame, and very few of them are looking for quality, the truthfulness and accuracy, or investigate the product before they advertise it, consumers need to be advised not to drift behind what is announced by people who exploit their fame and the number of followers on the platforms of the virtual world.

¹⁷ a designer, promoter, or follower of the latest fashions, check the Merriam dictionary, <https://www.merriam-webster.com/dictionary/fashionista>

4 Conclusion

In this study, we dealt with the role of substantive civil liability in consumer protection. It was found that, contrary to the traditional rules of civil liability based on the need to prove the defendant's fault, strict civil liability had contributed significantly to the protection of consumers in several ways, as follows:

- Exempting the injured from proving the fault of the defendant.
- The defendant cannot deny his responsibility even by proving the foreign cause other than in the case where the victim has caused the damage.
- Creating financial resources that will provide the amounts of money through which the injured are compensated.

The study also showed that there is a legislative vacuum - at least in the Arab countries - regarding the protection of consumers from the damage that may be caused by the products advertised

As the themes above each demonstrate that ethical implications that are exacerbated with the advent of technologies that bring an individual closer towards a media environment, it would be prudent to keep a consistent watch on the developments and uses of these technologies.

Most Laws and regulations need to be updated due to the advanced technologies that raise up every day in the field of media ads specially on the internet.

The responsibilities of provider are mentioned on UAE federal law, however none of other related parts are mentioned specially in the internet ads, satellite administrations.

Social media influencers need to have regulated their ads activities as a code of conduct.

The consumer has a right in compensation that should be obtained from many parts.

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