

Commencement of Online Business



موسسه وکلای بین المللی بیان امروز
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Introduction:

After the advent of online business, whenever the topic of a discussion is commerce or business, online businesses or businesses that rely on internet and applications are proposed as one of the successful approaches by investors. This is also the case in Iran, in particular, throughout the previous years in which a conspicuous improvement has been seen in the field of online businesses. It is not an exaggeration to say that 90 percent of those Iranians who read this article are familiar with brands such as Snapp, Zood Food, Pintapin, Digi Kala and Café Bazar and also about 80 percent of them have used these applications. As a lawyer of active companies in this field and also as a member in the Iran and Italy Chamber and Commissions, I shall try to explain the legal aspects of this kind of business in this article.

When an investor intends to invest in a financial project, the first step in order to start a new project or develop an old project is to conduct the technical, legal and marketing studies. It is always the case that investors search for the best approach in order to gain more profit. Although entering into the field of online business and marketing is a new concept which is based on novel and creative ideas and as other types of businesses has its own risks, it would be a logical decision to firstly try to know the advantages of this type of business.

Advantages of Online Business:

In order for the readers to be familiar with the advantages of online business in comparison with other types of business, some of these advantages are listed below:

1. Buying, selling or ordering services throughout 24 hours a day,
2. Acquiring extensive and comprehensive information regarding goods and services needed by customers,
3. Free or inexpensive communication with all people through communication means such as email, chats, etc.,
4. Removing the middleman and supplying the customers with goods and services directly which would have influence on the cost and time of transactions,
5. Communication with a great number of consumers and producers,
6. Globalization of the business through selling the products to all countries,
7. Consumers can order their desirable products,
8. New economic fluctuations which have made competition possible for newly established companies,
9. Reducing the human errors and creating better facilities for management in countries,
10. Increase in the number of sellers and buyers,
11. Enhancement of welfare through increase in production, reduction of transaction and distribution costs and increase in competition,



12. Creation of economic dynamism through the presence of innovative people in the competitive market.

General Requirements for Online Business:

The primary requirement for entering the field of online business is to be familiar with it. However, since it is not possible to go into details of this sector in this article, a general overview is provided below.

Entering into online or virtual business and marketing can occur through two different approaches:

1. Determination of idea and innovation and investment for the purpose of commercialization: nowadays, there are different associations in Iran that try to determine ideas and innovations and provide detailed plans as well as technical and financial facilities to those who have ideas. Science and Technology Parks and Development centers are good examples of such associations. The risks in this approach are more than the second approach, however, the possibility of a tremendous success could act as an effective factor for taking this approach.
2. Developing an actual business into a virtual business: one of the reliable methods for entering into online or virtual businesses is to change and develop an actual business into a virtual one through legal procedures. In this approach, it would be possible to sell your goods and services online, which would enter companies into a world without limits. This might be the best approach for members of the Chamber as they are all reputable in their own field of activity.

Similar to traditional business, online business can be divided into the following categories: business to business, business to customer, customer to customer, customer to business, business to government and government to government. Moreover, the main methods of online business are as follows: creating online groups, selling, purchasing and bidding of different goods, online advertisements, rendering specialized services such as consultation or education, supplying software, transportation of goods and services, email services, information services such as obtaining the required information, providing security services and premium membership services.

Requirements for Issuance of Online Business Licenses:

Whether actual or virtual, the most important law governing the businesses in Iran is the Union System Act 1971 which was amended in 1980, 2003 and 2013. In this article, the Union System Act means the amendments of 2003 and 2013.

According to Article 12 of the said Act, it is necessary to acquire a business license from the competent union or legal authority in order to establish any business. In this regard, online business is not considered as an exception. In accordance with Article 87 of the Union System Act, the activity of businesses in virtual (cyber) space is subject to acquiring a business license from the relevant union. Therefore, all those who intend to sell goods or provide services using the virtual space must acquire a business license.

The relevant legal authorities are mentioned in Article 26 of the above mentioned Act. The related unions are the primary legal authority for issuance of business licenses. Since no unions were established for online businesses (the procedures for establishment of a union are in progress), according to Note 3 of Article 26, the issuance of business license and other tasks used to be conducted by a peer union or the Union Chamber of the pertinent city and under the supervision of the Supervision Commission. In fact, after referring to the Union Chamber for acquiring the business license, an ISIC Code was obtained from the Supervision Commission or High Council and the applicants were referred to the unions that were active in this field. In this regard, since the subject was related to virtual space, most of the applicants used to be referred to the Fanavaran Rayane Union and the business license was issued by the said union.

Subsequently, in accordance with Note 1 of Article 12 of the 2003 amendments, the Ministry of Commerce adopted a Regulation entitled Protocol of Regulation on the required Criteria of Issuance of Business Licenses for Electronic Shops. However, the said Note was invalidated by the amendments of 2013. Furthermore, according to Article 87 of Union System Act, the



Executive Regulation on Issuance and Extension of Business License and Supervision on Businesses in Virtual Space was prepared by the Union Chamber of Iran, Secretariat of High Supervision Council and Ministry of Intelligence and Ministry of Communications and Technology in July 5, 2015 and was afterwards adopted by the Ministry of Industry, Mine and Commerce. However, as a reaction to the needs of those active in virtual space and according to Articles 2 and 12 and Note of Article 87 of Union System Act, another Executive Regulation was adopted in February 19, 2017 in regard to the Issuance of License and Supervision on Businesses in Virtual Space and Marketing. Previous Regulations were substituted by this Regulation and it is enforced by the relevant authorities.

In accordance with Note under Article 87: “issuance of license and supervision on businesses in virtual space is subject to a regulation that shall be prepared by the Union Chamber of Iran, Secretariat of High Supervision Council and Ministry of Intelligence and Ministry of Communications and Technology and shall be adopted by the Ministry of Industry, Mine and Commerce within 3 months after this Act has entered into force.”

The activities in virtual space are divided into two categories in the 2017 Regulation: 1. Virtual Business. 2. Network Marketing. According to Paragraph 1 in Article 1, Virtual Business is a business established by any natural or legal person in order to provide products (goods or services) directly or indirectly on a wholesale or retail basis, to wholesalers, retailers and consumers through telecommunication means such as websites and digital software (applications). According to Paragraph 2 of Article 1, “Network Marketing is a method for selling products based on which the Network Marketing company uses its website to organize the marketers in order to sell its products directly to consumers in a place far from the regular selling location. Through this method, each marketer can introduce another marketer as it subset and create a multi-aspect sales group in order

to increase sales.” The competent authority for issuance of licenses in this regard is National Union. Therefore, any person, whether natural or legal, who intends to acquire a license in order to have its activities done online, must proceed with the license issuance procedures on the website of Commerce Development Center in order to acquire the Reliance Symbol. Since the said website is connected to the website of Union Chamber, after the documents are provided by the applicant, the license shall be issued by the Union.

In accordance with Article 3 of the above mentioned Regulation, business licenses are issued after the following procedures:

1. Establishment of the virtual business according to the checklists provided by Center for Development of Electronic Commerce.
2. Registration of application in E-Namad website (the Center for Development of Electronic Commerce submits the application under Union System Act to the unions’ website, immediately after evaluation and in accordance with the list provided by Unions and Businesses Center)
3. Uploading the documents listed in Article 4 of this Regulation.
4. Completion of the documents in accordance with Article 4 of this Regulation by the union. Note: the union must simultaneously conduct an enquiry from the organizations mentioned in Article 4.
5. Issuance and submission of the license (after verifying the uploaded documents and the original copies thereof) to the applicant at most within 15 days and submission of the license information to E-Namad website.
6. Grant of Electronic Reliance Symbol concurrent with issuance of the license.

Furthermore, the said Regulation specifies the required documents for issuance of business license as follows:

A: General

1. The address to the office or legal domicile of the applicant.
2. Personal Competence Certificate from the Police.
3. Certificate of the relevant Tax Organization regarding payment of final tax debts (Article 186 of Direct Taxes Act)
4. Certificate for attendance in educational courses of commerce and business (Paragraph N under Article 35 of the Union System Act).
5. Confirmation of specialized features regarding virtual business issued by the Center for Development of Electronic Commerce, in accordance with the Electronic Commerce Act and Article 3 in the Articles of Association of Center for Development of Electronic Commerce.

Note: those who hold a business license for actual space and have applied for selling their products through virtual space, must merely submit this confirmation in order to acquire the business license and E-Namad.

6. The photocopy of National Card for natural persons, the National Number for legal persons and passport or work permit for foreigners.

7. The photocopy of Military Service Termination Card or Permanent or Medical Exemption Card for men under 50 or a Student Certificate.

B: Particular

1. Specialized or technical permit or technical diploma or related university degrees or introducing a person who has these features (for businesses under Article 13 of the Union System Act)
2. Resolution of Board of Directors regarding issuance of business license for Managing Director or one of the signatories in accordance with the Articles of Association and latest registration notice of the company in official gazette (for legal persons)

Furthermore, according to the Electronic Commerce Act and Article 3 in Articles of Association of the Center for Development of Electronic Commerce, those who hold an actual business license and intend to sell their products through the virtual space, must submit the Confirmation regarding specialized features of the virtual business (which is issued by the Center for Development of Electronic Commerce) in order to acquire the virtual space license and E-Namad. Accordingly, to change a traditional business to online business and to enjoy the advantages of this approach for sale of the products and provision of services can be an intriguing issue for those members of the board who intend to expand and develop their businesses.

In addition, another stage in the process of issuing a business license is to acquire a Reliance Symbol, which in accordance with Paragraph 10 of Article 1 of the Regulation is a symbol issued by the Center for Development of Electronic Commerce and for the online businesses, at the same time the business license is issued, in order to organize and determine the identity and competence of applicants. The said center is an organ in the Ministry of Industry, Mine and Commerce which is now located in Naderi Street, building number 1 of the said Ministry. In order to acquire the Symbol, the applicants can refer to www.enamad.ir.

Moreover, it should be noted that the Cultural Heritage, Handicrafts and Tourism Organization of Iran has set out certain criteria for activities in the virtual space. According to the guideline regarding travel and tourism services in virtual space and the guideline regarding establishment of marketing websites and sale of tourism services in virtual space and the plan regarding organizing those who are active in the virtual space, the following must acquire the T-Namad according to the pre-defined regulations:

1. Travel Agency Services, Accommodation Centers and other tourism establishments that have a license from the Organization for actual activities and render their services on virtual space,
2. Those who render services on virtual space freely,
3. Those who intend to start an online business in the tourism sector.

After the investigations of the Organization and final confirmation of the Certificate of Tourism Services on Virtual Space by the Administration of Supervision and Evaluation of Tourism Services, the Reliance Symbol shall be issued by the Center of Development of Electronic Commerce.

One of the concerns that is common among the investors in this field, is the manner in which the Supervision Organizations act. Due to the conflicts between the actual and virtual space businesses, there used to be many problems for this kind of business. However, after the entry into force of the new Regulation, the problems will hopefully be solved before the specialized authority appointed in this regard. This shall send a good message to those who are active in the field of online businesses and network marketing. Moreover, establishment of specialized unions for this field shall result in increased protection of investors.

According to Article 15 of the Regulation, supervision of marketing companies and online businesses lies with a committee consisting of the representatives of Businesses and Unions Center of Iran (as the Chairman), Center for Development of Electronic Commerce, The Ministry of Communications and Information Technology, the Police, Unions' Chamber of Iran and the related union. The Secretariat of Committee is located in the Businesses and Unions Center of Iran. Investigation of violations committed by online businesses and marketing companies lies with the Committee.

I had the honor to cooperate with some of the most successful start-ups in Iran and in order to become familiar with them, a number of these companies are introduced below.

Successful Examples of Online Businesses in Iran

Snapp

This is an Iranian ride hailing company which renders its services online. The Snapp application automatically connects the users to the nearest driver and shows the location of user to the driver. Afterwards, the nearest driver declares that he is ready and will pick up the users from their location. Snapp calculates the price beforehand. This price is lower than the prices received by the Taxi and Taxi Agency Unions and can be received either in cash or via online payment or credit.



Zoodfood

Zoodfood is the first application for ordering food via internet in Iran and is cooperating with many restaurants. In addition to online ordering, on the website, you can find the Restaurant Bank containing the photos of restaurants. One of the unique options provided on the Zoodfood website, is the up to date menus of restaurants along with the related photos and prices. The users can easily choose and receive their food and pay for it in cash, via credit or online.



Pintapin

Pintapin is a comprehensive tool for rendering travel services online. All hotels, pensions and historical houses that render accommodation services are listed and covered in Pintapin and users can book their desired location online. It is also possible to submit the information regarding your



destination, duration of stay and number of companions in order to receive suitable suggestions from Pintapin. Moreover, the booking prices on Pintapin are low.

Bamilo

Bamilo is one of the online stores in Iran that is active in the field of Electronic Commerce and is considered to be the entrepreneur of Marketplace businesses in Iran. It started its activity in 2014 and is now among the most viewed websites in Iran. Based on this model, the most active example of which is Amazon, the online store is considered as the middleman between the supplier (seller) and consumers.



Eskano

Eskano is a smart system for searching real estate in Iran which is performed under international standards. By determining transferable real estates in different cities of Iran, Eskano facilitates the process regarding sale and lease for all applicants. In fact, enjoying the experience of activity in 40 countries and up to date advertisement equipment in virtual space, the Eskano group makes it possible for the online applicants to access the information on transferable real estates.



Digikala

Digikala is the name of one of the websites that is active in the field of electronic commerce in Iran which is considered to be the biggest online store in Iran. Cellphones, laptops and computers, digital cameras, office appliances, automobiles, watches, home appliances, instruments, jewelry, toys, clothes and books are some of the items sold on this website. One of the features of this website is the detailed and comprehensive reviews which exist in regard to different types of digital goods which can be a reliable source for purchasers.



Aparat

Aparat is a video sharing website in Iran, on which the users can upload and share their videos. It has been declared that the reason for provision of this service is the high rate of requests made by Iranian users regarding provision of sharing services. Aparat is the best video sharing website in Iran and due to the common language, some of the neighboring countries use the services provided by this website as well.



Netbarg

Netbarg is one of the popular websites for collective purchasing in Iran. Such websites usually offer a particular good or service on a daily basis and once the applicants of those products reach a certain number, the offer becomes final and the pertinent good or service is sold. Netbarg uses

novel advertisement methods and collective purchase power in order to achieve a model which is both gainful for the producers and service providers and cost effective for purchasers.



Iranian Users in Virtual Space:

In order for the dear businessmen to become familiar with the number of potential customers in Iran and also to easily enter this sector, this section contains brief statistics regarding Iranian users who are active in virtual space.

According to the statistics on “Internet Data and Statistics” website which publishes a list regarding the number of internet users, Iranian users are ranked thirteenth. In accordance with these statistics, 57 out of 83 million Iranian people have access to the internet which comprise 68/5 percent of the population. China, India and United States of America are ranked first to third in the said statistics.

According to the statistics, the activities of users are divided into different categories out of which 58/3 percent of users use internet in order to receive information about goods and services and 37/5 percent use it to send and receive emails. Furthermore, until the end of Azar 1394 (December 2015) 58 percent of the internet users were male and 42 percent of them were female. As for the frequency of connection, those users who have access to the internet at least once a day constitute 35 percent of statistics and 24 percent of the users have access to the internet at least once a week. 17 percent of the population use internet at least once a month and less than 16 percent of the users use the internet less than once a month.

Although according to the Internet Data and Statistics website, 68/5 percent of the population use the internet, it has been declared by the Iranian authorities that 82/12 percent of the Iranian population use the internet, out of which 47/7 percent are among 20 to 29 years old, while 27/3 percent are among 50 to 89 years old. In addition, 13 percent of the Iranian users use the Electronic Banking Services, 37/5 percent use the Electronic Government Services and 42 percent are involved in Electronic Commerce.

However, the remarkable statistics belong to the ratings of Telegram. According to the statistics, 12 percent of the Iranian band width is dedicated to telegram. This application is ranked 14th in Web Access and 20th in Cellphone Access in Iran. Furthermore, 80/5 percent of the telegram users are Iranians. All the statistics above show the great capacity of Iranian market for entrepreneurs who intend to supply their products in this region and achieve success through enforcement of their novel and fascinating ideas.



I WOULD BE GLAD TO RECEIVE YOUR KIND REMARKS AND SUGGESTIONS IN ORDER TO COMPLETE MY ARTICLES IN THIS FIELD. FURTHERMORE, SHOULD YOU HAVE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CONTACT ME.

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