

**Invitation of Submissions: Examination of the Law Applicable to
Consumer Transactions with International Corporations**

The Israeli Ministry of Justice has commenced an examination of the legal framework which applies to online transactions between Israeli consumers and international corporations. As part of the examination process, **the Ministry has issued an invitation for international corporations active in the Israeli market** to address specific questions that are intended to contribute to the formulation of the Ministry's final opinion on the matter.

We provide below a brief, non-verbatim translated summary of the invitation as well as the translated questions for response by international corporations (marked in bold).

“In the past few years, the scope of online trade between international corporations and Israeli consumers has expanded significantly...

Israeli law provides enhanced protection for online consumers due to the inherent power and information gap in favor of providers of goods and services. Consumers do not see or examine the product prior to its purchase, nor do they converse or meet with suppliers or have the opportunity to discuss the terms of the transaction agreement...

The said agreements between Israeli consumers and international suppliers often include applicable law and forum selection clauses. Such clauses are non-negotiable to the Israeli consumer, who is unaware of their implications. Often the designated applicable law and forum are advantageous for the suppliers...

Therefore, when Israeli consumers wish to file a claim against a foreign company where such an agreement and such clauses are in place, they are faced with questions regarding the authority of the Israeli courts and the applicable law. These questions often lack clear answers and are ruled on a case-by-case basis. However, certain Israeli consumer legislations specifically state that they apply to non-Israeli service providers (*e.g.*, article 47 of the Payment Services Act, 5779-2019)...

Some countries have taken a stance on some of the above issues and favored their local consumer regulations, even in such cases where online

agreements included a contradicting clause. For example, Swiss law dictates that the applicable legal framework is that of the consumers' place of residence, and European legislation (Rome I Regulation) includes a limitation forbidding the denial of the consumers' local regulative protections...

Therefore, the Counseling and Legislation (Civil Law) Department of the Israeli Ministry of Justice is inviting consumers and international corporations providing services and goods to the Israeli market through online platforms to answer questions relevant to them and to contribute their input.

Israeli consumers are invited to submit their answers to the following questions:

1. Is it desirable for an online standard contract with an applicable law clause to completely deny the application of Israeli law to the transaction? Are there considerations in favor of honoring such clause? If so, how and under which circumstances?
2. Is it desirable to ensure, for example by way of legislation, that Israeli law will apply to Israeli online consumers, and under which circumstances? If so, which existing acts should be applied to contracts of non-Israeli suppliers who supply goods and services to Israeli consumers?
3. Following the previous question: Should the said acts apply in their entirety or should only their main articles apply? Should there be a difference, regarding this matter, between cogent and dispositive acts or articles?
4. Similar to the Payment Services Act mentioned above, the Department wishes to examine a legal framework according to which a cause of action for applying Israeli law to international corporations will arise when such corporations aim their activities towards Israeli consumers. What circumstances might suggest that such is the case? Which other circumstances (regarding the supplier and the transaction) would be relevant for determining the application of Israeli law to international corporations?
5. Should such a framework apply solely to household and private consumers, or should it apply more widely to customers who are businesses that enter in similar online agreements as well?

International corporations are invited to submit their answers to the following questions:

- 1. Do you see any principal difficulties with applying certain Israeli legislation to contracts to which an Israeli consumer is a party?**
- 2. If you hold that a differentiation in the law applicable to you in comparison to Israeli companies is justified, what is the said justification considering the concept that one body of law should apply to all players in the market?**
- 3. Do other countries in which you operate apply their local consumer regulation to your online transactions with local consumers? If so, is such application set forth in local legislation? Or is it voluntary, stipulated in contracts that you sign, or following negotiation processes with consumer organizations or the governments themselves?"**

All responses must be submitted to the Counseling and Legislation (Civil Law) Department of the Israeli Ministry of Justice, **By March 16th, 2021.**

For assistance, please contact Adv. Yechiel Kasher, yechiel@tadmor-levy.com.