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ELECTRONICS CONTRACTS

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The latest mode of making instant contracts is to enter into contracts through computer internet. Through Computer internet, which is the most revolutionary mode of communication system, it is possible to send messages across the world from one part of the globe to another part of the globe. These messages through e-mail reach from the sender to the addressee instantly. Every day thousand of millions of messages pass on across the world between the persons of the same country and between persons of one country and persons of another country. The internet connects countless networks throughout the world, which include corporate net works, Universities, International Business Houses and other individuals.

Now internet software system has proved to be a big plus point entering into several contracts within the country and outside the country. By exchange of communication of offer and acceptance between the parties it is very much feasible to enter into contracts instantaneously- these offers record. The legality and enforceability of the E-Contracts is no way affected merely because the formation of the contract depended on the electronic record that being resorted.

The **UNCITRAL** [1] adopted the Model Law on Electronic Commerce in 1996. The General Assembly of United Nations by its resolution no. 51/162, dated 30th Jan 1997 recommended that all States should give favorable considerations to the said Model Law, when they enact or revise their Laws. The Model Law provides for equal legal treatment of uses of electronic communication and countries, the World Trade Organization is likely to form a work Programme to handle its work in this area, which includes the possible creation of multilateral trade deals through the medium of electronic contracts.

The popular saying that the only thing that is constant is change has been proved by the advent of the Information Technology age and the Internet. Indeed there is no gainsaying the fact that the Internet has changed the way we think and do business, a question that must be answered is weather it has changed the law. While the answer to this may vary depending on the perspective of the individual, one thing that is clear is that the application of long standing legal principles has to change if the law must catch up with the speed of developments in this area of human activity. It is predicted that $1.25 trillion worth of goods and services will be sold to consumers over the Internet by the year 2005 with over 200 million people expected to use the Internet. Founder of Microsoft, Bill Gates predicted in 1998 that the price of a personal computer would be cheaper than the Television in ten years. If this happens one can only imagine the extent to which e-commerce will leapfrog in the coming years. Nigeria is gradually inching up the ladder of Internet users with a growth rate in use of the Internet at 110%, with the number of users increasing from 200,000 in year 2000 to the latest figure of 420,000. While this growth may be considered too slow the fact that many legal questions relating to security, privacy, authenticity and much more have not been answered has not helped matters. New forms of technology such as digital signatures E-cash and smart cards are being used to help electronic commerce grow into a widely accepted form of business.

A contract is a legally binding agreement between two or more persons by which rights are acquired by one or more to acts or forbearance on the part of the other or others.

E-Contract is an aid to drafting and negotiating successful contracts for consumer and business e-commerce and related services. It is designed to assist people in formulating and implementing commercial contracts policies within e-businesses. It contains model contracts for the sale of products and supply of digital products and services to both consumers and businesses.

An e-contract is a contract modeled, executed and enacted by a software system. Computer programs are used to automate business processes that govern e-contracts. E-contracts can be mapped to inter-related programs, which have to be specified carefully to satisfy the contract requirements. These programs do not have the capabilities to handle complex relationships between parties to an e-contract

An electronic or digital contract is an agreement “drafted” and "signed" in an electronic form. An electronic agreement can be drafted in the similar manner in which a normal hard copy agreement is drafted. For example, an agreement is drafted on your computer and was sent to a business associate via e-mail. The business associate, in turn, e-mails it back to you with an electronic signature indicating acceptance. An e-contract can also be in the form of a "Click to Agree" contract, commonly used with downloaded software: The user clicks an "I Agree" button on a page containing the terms of the software license before the transaction can be completed. Since a traditional ink signature isn't possible on an electronic contract, people use several different ways to indicate their electronic signatures, like typing the signer's name into the signature area, pasting in a scanned version of the signer's signature or clicking an "I Accept" button and many more.

E-Contracts can be categorized into two types i.e. ***web-wrap agreements*** [2] ***and shrink-wrap agreements***. [3] A person witnesses these e-contracts everyday but is unaware of the legal intricacies connected to it. Web-wrap agreements are basically web based agreements which requires assent of the party by way of clicking the “I agree” or “I accept” button e.g. E-bay user agreement, Citibank terms and conditions, etc. Whereas Shrink-wrap agreements are those which are accepted by a user when software is installed from a CD-ROM e.g. Nokia pc-suite software.
Electronic contracts are the instrument to govern electronic trading relationships between business parties. A number of efforts exist in both the academic and industrial worlds to define an e-contract specification language. However, these efforts lack either universality or completeness. The main reasons for this are the complexity and diversity of business contracts. For the definition of a common, complete e-contract specification language, the identification of requirements on an e-contract language is an underlying prerequisite.

E-contract is a contract modeled, specified, executed and deployed by a software system. E-contracts are conceptually very similar to traditional (paper based) commercial contracts. Vendors present their products, prices and terms to prospective buyers. Buyers consider their options, negotiate prices and terms (where possible), place orders and make payments. Then, the vendors deliver the purchased products. Nevertheless, because of the ways in which it differs from traditional commerce, electronic commerce raises some new and interesting technical and legal challenges.

So an E-Contract is a contract that is formed electronically. New laws are needed to govern these contracts however; today most courts have adapted traditional contract law principles and the provisions of the Uniform Commercial Code to cases involving e-contract disputes.

Forming Contracts Online:

Online transactions can be identified in three ways:

- *B2C are business-to-consumer transactions conducted via the Internet.*
- *B2B are business-to-business transactions conducted via the Internet.*
- *C2C are consumer-to-consumer transactions conducted via the Internet.*

It's an undisputed fact that E-Commerce has become a part of our daily life. One such justification for the popularization of E-Commerce would be immoderate technological advancement. We know, E-Commerce, as the name suggests, is the practice of buying and selling goods and services through online consumer services on the internet. The 'e' used before the word 'commerce' is a shortened form of 'electronic'. The effectiveness of E-Commerce is based on electronically made contracts known as E-Contracts. Although E-Contracts are legalized by Information Technology Act but still majority feels insecure while dealing online. The reason being lack of transparency in the terms & conditions attached to the contract and the jurisdiction in case of a dispute that may arise during the pendency of a transaction with an offshore site.

It is true that in today's context when the world is coming close and there is expansion of businesses in recent years, E-contracts are inevitable, as there is a great and important contribution of these E-contracts in expansion of these businesses, but it is also true that there are various issues and challenges we have to face because of its vary nature.

Again it is true that e-contracts, on the one hand they reduce costs, saves time, fasten customer response and improve service quality by reducing paper work, thus increasing automation. With this, E-commerce is expected to improve the productivity and competitiveness of participating businesses by providing unprecedented access to an on-line global market place with millions of customers and thousands of products and services. On the other hand, since in electronic contract, the proposal focuses not on humans who make decisions on specific transactions, but on how risk should be structured in an automated environment. Therefore the object is to create default rules for attributing a message to a party so as to avoid any fraud and discrepancy in the contract.

It is a fact that today also the consumers were more at ease while dealing with contracts manually rather than going in for transactions on the web though it was legalized by the Information Technology Act now.

The number of takers for the e-contracts are not so encouraging, though it was as common as the manual contracts, and the reason for this, was the fear of failure of the contracts due to the status of the websites, factors influencing the validation of the contracts and lack of clarity on the jurisdiction of the case while dealing with an offshore site, legal implications involved in case of a grievance.

It was predicted that over 600 million people would have Internet access and spend over US$1 trillion online in 2003. Over eighty-three percent of worldwide online sales will come from business-to-business ("B2B") commerce, growing to eighty-eight percent by 2006. Simple computer-based contracts will be formed to facilitate these transactions. Indeed, they are formed every day—from a consumer purchasing a camera from a website with a simple click of a "Place Your Order" button to distant merchants acquiring millions of durable goods from each other through complicated automated transactions. Legal scrutiny around the formation of computer-based contracts affects consumers and businesses engaging in international trade. While most consumers enjoy the security of domestic consumer protection laws to shield them from incorrect, incomplete, or fraudulent computer-based transactions, commercial entities have different legal resources embracing their transactions.

Electronic commerce is a growing section of the business world. Even though it has not had a long history there have been several key moments leading to the current level of e-commerce. Currently there is a lot of research going on trying to find technology that can help customers have a more natural experience e-commerce shopping. There are also specific industries that this method of business is having a larger impact on such as the banking industry. In turn as the growth continues economic, social and privacy issues begin to arise. Examining the overall effect of e-commerce there are still problems, such as privacy concerns, that need businesses attention. However, there are also many benefits to e-commerce that are strong enough to encourage continued growth and development.

Reference :

[1] United Nations Commission of International Trade Law.

[2] Its an Agreement requiring a party to manifest its assent by hitting a key or clicking an on-screen button. It is especially designed for use in the context of the on-line sale of goods.

[3]These are license agreements or other terms and conditions of a (putatively) contractual *nature which can only be read and accepted by the consumer after opening the product. The term describes the shrinkwrap plastic wrapping used to coat software boxes, though these contracts are not limited to the software industry. Web-wrap, click-wrap and browse-wrap are related terms which refer to license agreements in software which is downloaded or used over the internet*.

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